

DEVELOPMENT SERVICES

REPORT TO PLANNING &
HIGHWAYS COMMITTEE
23 July 2013

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

An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for alterations and extension to roof to form rooms in roof space, including a rear dormer window and a side dormer extension to dwellinghouse (As amended drawing 537/PL/101 A received 14/05/2013) at 43 Brooklands Avenue (Case No 13/01179/FUL)

An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for alterations to existing chapel to form 12 flats at Woodhouse Trinity Methodist Church, Chapel Street, Woodhouse, Sheffield, S13 7JL (Case No 12/01336/FUL)

An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the erection of a dwellinghouse (Amended drawings dated 24 May 2013) within the curtilage of 107 Whirlowdale Road Sheffield, S7 2NF (Case No 13/01304/FUL)

An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission and listed building consent for the demolition of timber sheds and erection of outbuilding for use as ancillary office accommodation and storage (As amended plans received 10/05/13) at Stoney Croft Cottage, Midhope Hall Lane, Sheffield, S36 4GP (Case No's 13/00718/FUL and 13/00909/LBC)

3.0 APPEALS DECISIONS - ALLOWED

(i) To report that an appeal against the delegated decision of the Council to refuse planning consent for Flat 2, The Elms, 11A Collegiate Crescent, Sheffield, S10 2BA, has been allowed (Case No 12/02437/FUL)

Officer Comment:-

The Inspector identified the key issue to be the effect of the proposal upon the living conditions of neighbouring residents, with particular reference to

outlook, daylight and sunlight.

He noted the proposal would be clearly visible from the kitchen window of a neighbouring flat but was mindful of the existence of a similar structure previously. He did not consider that the presence of parked cars directly outside the kitchen window would result in a harmful relationship, noting that parking already occurred in this general area. He states that in reaching this conclusion he has given weight to the specific support for the proposal from the occupier of the flat.

He acknowledged some partial loss of light to a bathroom window but was not convinced this would be detrimental to living conditions, given the nature of the room it serves.

The Inspector therefore concluded that despite the size of the staircase, in close proximity to windows serving the ground floor flat, the size, scale and siting of the proposal would not significantly harm the living conditions of residents. Neither due to its location at the rear of the property would it impact adversely on the character of the Broomhall Conservation Area. He therefore allowed the appeal.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning consent for single-storey front extension to dwellinghouse at 19 Hibberd Place, Sheffield, S6 4RF, has been allowed (Case No 13/00510/FUL)

Officer Comment:-

The main issue identified by the Inspector was the effect of the proposed extension on the character and appearance of Hibberd Place.

The Inspector noted that there are a variety of dwelling types and styles including detached, semi-detached and terraced houses in the street and the appeal site is within a terrace of 5 houses, set back from the road by 7 metres.

The proposed extension would project 3 metres from the front elevation and have a width of 2.6 metres with stone walls and a pitched tile roof to match the existing house.

The Inspector was of the view that there is no clear building line along the street, that there is no clearly established character nor a unified appearance along the road and the current uniformity of the front elevation of the terrace is not a critical factor in the overall character and appearance of the road. The proposed extension was not considered to be prominent in the street scene.

For these reasons, the Inspector concluded that the proposed extension would not be harmful to the character and appearance of Hibberd Place and would not conflict with UDP policy H14

(iii) To report that an appeal against the delegated decision of the Council to refuse planning consent for single-storey rear extension to dwellinghouse - resubmission of planning application 12/02625/FUL at 49 Cairns Road,

Sheffield, S10 5NA, has been allowed (Case No 13/00484/FUL)

Officer Comment:-

No 49 Cairns Road is a semi-detached property. The unattached neighbouring house, No.47, is at a lower level than 49 by approximately 1.5 metres and its rear elevation is set back 3 metres from the rear elevation of the appeal property. The proposed extension would project 4 metres from the rear elevation of No 49 and be the full width of the dwelling with a monopitch roof rising from eaves level at 2.7 metres to a height of 3.5 metres.

The Inspector considered the main issue to be the effect of the extension on the living conditions of the occupiers of No 47 Cairns Road by way of light and outlook.

An earlier proposal at No 49 for a 3 metre projecting extension with a flat roof was found to be "Permitted Development"(PD). This was considered to be a significant "fall-back " position

The appeal proposal would project 1 metre further than the extension that would be PD, have a pitched roof which was considered to have a less obtrusive profile and be more sympathetic to the host building. The Inspector considered that the additional 1 metre projection would be compensated for by the reduction in height towards the southern end of the extension and would result in no additional loss of light when compared with the PD extension.

The Inspector did not consider the guidance contained in our "Designing House Extensions" Supplementary Planning Guidance (SPG) was relevant in this case.

In conclusion, the Inspector did not consider that there would be a significant harm to living conditions in the neighbouring property and so allowed the appeal.

An application for costs was made and allowed.

In this respect, the Inspector considered that insufficient significance was given to the available "fall-back" position and no evidence provided to establish a significant loss of light to the neighbouring property. Reference was made to our SPG but as the site circumstances were not identical to the guidance, the reference to the SPG was considered to be inaccurate. This was considered unreasonable and so costs were awarded.

(iv)) To report than an appeal against the decision of the Council at its meeting of 5 November 2012 to refuse planning consent for demolition of buildings on Plots 3 and 4, erection of a retail unit including garden centre, car dealership and drive-through coffee shop and provision of associated car parking accommodation on Plot 5 and partial removal of embankment and stockpiling of soil of plots 3 and 4 at Land And Buildings At Meadowhall Way, Meadowhall Drive, Vulcan Road And Weedon Street Sheffield S9 2FU (Case

No 12/01017/FUL)

Officer Comment:-

Permission was refused for the following three reasons.

1. There is a sequentially preferable site on the edge of the city centre at Moorfoot.
2. It would undermine investor confidence in key city centre retail schemes.
3. It would be contrary to policies CS 7 and CS14 which seek to maintain Meadowhall around its current size and resist major non-food retail development outside the City Centre's Primary Shopping Area and District Centres and their edges.

Members will recall that although the scheme included car dealerships and a Costa Coffee outlet it was only the Next Homeware store which was considered to be unacceptable. Following legal advice the Council did not defend the second reason for refusal as SWIP (The Moor developer) advised that circumstances had changed since the decision was made and they would not be able to provide evidence to support the Council's case that the proposal would undermine investor confidence.

The inspector considered the main issue was whether the proposal would accord with the relevant development plan policies relating to the city-wide distribution of shopping, and development at Meadowhall, and with the sequential approach to the provision of retail uses set out in the National Planning Policy Framework (NPPF).

The appellant argued that the Council's policies are out of date, do not accord with the NPPF, and should be given no weight in determining the application. The inspector rejected this argument and confirmed that the Council's policy on Meadowhall and the priority given to the City Centre should be given weight. He accepted that both CS7 and CS14 can be considered as up-to-date provided they are applied in the context of the sequential and impact tests contained in the NPPF. This conclusion is important in terms of the status of these planning policies; however it suggests that there would also have to be some significant conflict with NPPF policy to justify resisting an application under these policies.

When assessing the proposal against these policies the inspector was not persuaded by the Council's argument that the proposal would be regarded as an extension or enlargement of Meadowhall. The shopping centre and Next store entrances would be 500m apart and the walking route would not be seen as particularly attractive. The emerging City Policies and Sites Development Plan Document defines Meadowhall Shopping Centre as within Meadowhall Way which does not include the appeal site. Therefore he concluded that the appeal proposal would not conflict with the policy requirement of both CS7 and CS14 that Meadowhall remains around its

current size.

With regard to sequential test and the Moorfoot site the inspector did not accept the Council's argument that this is an edge- of- centre site. The inspector stuck to the strict policy interpretation of edge-of-centre as being within 300m of the Primary Shopping Area as defined in the City Policies and Sites Development Plan Document. As the Moorfoot site is 430m from the Primary Shopping Area he concluded that it is an out-of-centre-site, as is the Meadowhall Site. However he did acknowledge that it is clearly better connected to the City Centre and therefore occupies a sequentially preferable location.

National planning policy dictates that for the Meadowhall proposal to fail the sequential test the Moorfoot site would have to be both suitable and available to accommodate the Next Homeware store. In terms of suitability the inspector has taken into account two court cases which have defined how the sequential test must be applied. He drew attention to a ruling in one of these cases that indicates that it is "whether the proposed alternative site is suitable for the development proposed, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site." The inspector concluded that to operate from the Moorfoot site Next would have to compromise its business model to an excessive and unreasonable extent which would be contrary to the court ruling referred to above.

The inspector pointed out that the Moorfoot site could only accommodate 3310 sqm of gross floorspace over two trading floors and a 400 sqm garden centre, as opposed to Next's minimum requirement as defined in the sequential assessment of 3500 sqm, (or the 4112 sqm and a 746 sqm garden centre which was submitted in the planning application). This would mean that significant components of their product range would have to be omitted. He also gave weight to Next's view that the Moorfoot location was not suitable for a standalone Next Homeware store as it would not be profitable enough for them and that this could mean that they might have to include fashion goods to boost its profitability, which would push them towards what they considered to be an inappropriate business decision.

The inspector also had doubts as to whether the Moorfoot site could accommodate an efficient layout for a Next Homeware store and he agreed with the applicant that the amount of car parking available at Moorfoot would be inadequate. The key issue is that, following the NPPF and the court rulings referred to above, greater emphasis is being placed on alternative sequential sites meeting the full business requirements of the applicant.

In terms of the availability of the Moorfoot site the inspector concluded that it could not reasonably be considered available for the Next proposal especially given their desire to be trading within 12 months of gaining planning approval. He was not convinced that financial terms could be agreed between SWIP and Staples to facilitate their relocation, which is a requirement of accommodating the Next Homeware store.

The inspector concluded that planning permission should be granted as;

- The proposal would pass the sequential test.
- It would not have an unacceptable impact on investor or retail confidence or the vitality and viability of the City Centre.
- It would accord with policies CS7 and CS14.
- It would constitute sustainable development.
- There are other benefits which arise from the proposal including, development of brownfield site at a gateway location with a well-designed scheme and the creation of 150 jobs in an area where local communities suffer high levels of deprivation and unemployment.

4.0 RECOMMENDATIONS

That the report be noted

David Caulfield
Head of Planning

23 July 2013