



Appeal Decision

Site visit made on 23 August 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal Ref: APP/R4408/W/22/3294927

49 Woodstock Road, Barnsley S75 1DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Clayburn against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2021/1472, dated 27 October 2021, was refused by notice dated 17 December 2021.
 - The development proposed is Demolition of 49 Woodstock Road and residential development of 5no dwellings (Outline with matters reserved apart from means of access).
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Decision

1. The appeal is allowed and outline planning permission is granted for Demolition of 49 Woodstock Road and residential development of 5no dwellings at 49 Woodstock Road, Barnsley S75 1DX in accordance with the terms of the application, Ref 2021/1472, dated 1 November 2021, subject to the Schedule of 14 Conditions set out at the end of this decision.

Procedural Matters

2. The application form indicates the application is made in outline with access to be considered. However, submitted plan 19 5137 04 shows access and layout but is not marked as indicative or illustrative. The parties have confirmed that this plan is to be considered as indicative with respect to layout and I have considered the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect on the character and appearance of the surrounding area; and
 - the effect on the living conditions of neighbouring residents with particular regard to outlook and overlooking.

Reasons

Character and appearance

4. The appeal site consists of four dwellings at 49 to 55 (odd) Woodstock Road. The appeal proposal would require the demolition of No 49 to provide the vehicular access to the site. Nos 51-55 would be retained, with the development taking place in part of the rear gardens of these properties. It is

- effectively bounded by Woodstock Road and Woodstock Gardens, and the dwellings along Devonshire Drive, Melvinia Crescent and Woodstock Gardens.
5. Woodstock Road is linear, sloping downwards towards the railway line. The dwellings along it are typically semi-detached, with some detached properties, and are generally set back from the road. Along with the planting in the surrounding area, this creates a spacious character.
 6. Properties on Devonshire Drive, Melvinia Crescent and Woodstock Gardens are also adjacent to the site. The spacious character remains due to the topography and preponderance of bungalows, despite the plot sizes appearing to be smaller than those of the appeal site. These streets have a more modern layout with Woodstock Gardens being a cul-de-sac accessed from Woodstock Road and 6 Melvinia Crescent set behind the neighbouring properties. However, these do not detract from the spacious, suburban character as they are not prominent in views along Woodstock Street and Melvinia Crescent respectively. The appeal proposal would similarly not be prominent in views along Woodstock Street.
 7. The garden areas of the appeal site have a verdant character (albeit some of this comes from the overgrown condition of the site) which is supported by the visible trees in some of the surrounding gardens. Some of this character would inevitably be lost were the site to be developed, the indicative details on the site layout plan show that it would be possible to develop five dwellings on the site each with adequate private garden space, as well as retaining adequate private gardens for Nos 51-55. The indicative layout also demonstrates that landscaping could be provided in the public areas of the development. While layout and landscaping are to be considered at the reserved matters stage, the development proposed could be accommodated on the appeal site without an adverse effect on the character and appearance of the surrounding area.
 8. Having reached the conclusions above, the appeal proposal would respect the character and local context of the surrounding area and therefore have an acceptable effect on its character and appearance in accordance with Barnsley Local Plan adopted January 2019 (BLP) Policy D1. In reaching this conclusion, I have had regard to the Design of Housing Development Supplementary Planning Document and the design principles established within the National Planning Policy Framework (the Framework).

Living Conditions

9. The second reason for refusal raised concerns as to the effect on the living conditions of neighbouring residents with regard to overlooking and outlook. Those concerns were also raised by surrounding residents during the application process.
10. Appearance, layout and scale are to be considered at the reserved matters stage. It would be at this point that the effect on living conditions of neighbouring occupants would be assessed, including with regard to outlook and overlooking. Notwithstanding, the indicative plan demonstrates that a scheme could be developed that would provide the necessary separation that would ensure that material harm would not result from overlooking or loss of outlook.

11. The Council's reason for refusal also sought to await the outcome of another appeal¹ against conditions imposed on an extant permission. That appeal was allowed and the controls over the height of the buildings on the site were removed as the Inspector identified that was a matter to be 'considered and controlled by the Council at the relevant reserved matters stage/s'.
12. I therefore conclude that the proposed development would not result in material harm to the living conditions and residential amenity of residents as required by BLP Policy GD1.

Other Matters

13. The site has the benefit of the extant outline planning permission referred to above for three dwellings. There is tacit agreement in the Council's decision that this represents a realistic fallback position as part of the reason for refusal compares this proposal against the existing permission. The appellant's case is set out in these terms also. Notwithstanding, I have assessed this appeal on its own merits and have concluded that it would be acceptable.
14. The development proposes sufficient parking spaces to meet the local requirements for parking and so would not increase parking pressure on the surrounding streets. The Council have not expressed any concerns as regards highway safety. I have no reason to disagree with this conclusion.
15. A preliminary ecological appraisal was submitted with the application which assessed the site for biodiversity and made recommendations as to biodiversity enhancement measures to be incorporated into the development. The Council has not raised any concerns in relation to the report or its recommendations, which can be secured by condition, and I have no reason to disagree.
16. Concerns have been raised as to the effect of the levelling works which would be necessary to facilitate the development and their effect on surrounding structures and the effect of any planted trees on those structures. A condition can be imposed regarding details of levels to be submitted as part of the reserved matters application to allow these effects to be assessed. Landscaping would be controlled at the reserved matter stage. Other legislation controls the safety aspects of this work and the development as a whole. A condition can be imposed to control the hours of noisy development works to address concerns about the effects of construction on surrounding residents.
17. Environmental standards are in general controlled through building regulations and there is no evidence before me to require any higher standards to be imposed. The provision of five dwellings would not result in a material increase in pollution levels in the surrounding area.
18. The Council has not raised any concerns as to the loss of the existing boundary features such as the wall and hedgerow, and I did not see any reason on site to reach a different view.
19. There is no planning reason to require the retention of the existing dwelling at No 49. The comments of surrounding residents with regard to the number of applications on the site and the business model of the appellant are not material to the determination of this appeal. Controls over houses in multiple occupation and measures to deal with anti-social behaviour, should they arise,

¹ APP/R4408/W/21/3284433 allowed 16 February 2022

exist through various regimes, including the planning system. Private rights have also been raised as a concern; however these would need to be addressed using the relevant legal remedies that exist outside the planning system.

Conditions

20. The Council has suggested several conditions should the appeal be allowed. I have had regard to these in light of the advice contained within the Framework and the PPG.
21. I have amended the wording of the conditions in relation to time limits, submission of reserved matters and approved plans to reflect the facts of the appeal and in the interests of precision.
22. Given the topography of the site and surrounding area, it is necessary for details of levels to be approved as part of the reserved matters.
23. A condition controlling hours of noisy works and deliveries is considered reasonable and necessary given the proximity of the development to other residential properties.
24. A landscape management plan for the areas of landscaping outwith any domestic curtilage is considered to be reasonable and necessary given it is likely to be of value in integrating the development into the surrounding environment. I have amended the suggested wording in the interests of precision and reasonableness.
25. Conditions in relation to the access and parking areas are reasonable and necessary as access and layout are being considered at this stage. I have amended the wording in the interests of precision.
26. Drainage is beyond the scope of reserved matters and is necessary at this stage. I have combined the suggested conditions in the interests of clarity. As the site has been identified as being at risk from coal mining legacy, a condition to allow for assessment and any necessary mitigation is necessary. I have amended the wording in the interests of precision and enforceability. It is necessary for these to be pre-commencement conditions as they are fundamental to the development.
27. A Preliminary Ecological Appraisal was submitted as part of the application which made recommendations to conserve and enhance biodiversity. These measures are considered to be reasonable and it is necessary to impose the condition at this stage as it is an issue that falls outside the scope of the reserved matters.
28. I have included a condition restricting the number of dwellings to 5. While this was not suggested by the Council, it is necessary to define the terms of the permission.

It is not necessary to impose a condition regarding materials, boundary treatments or landscaping details as they are matters to be controlled through the submission of reserved matters. Paragraph 54 of the Framework is clear that national permitted development rights should only be withdrawn where there is clear justification to do so. Little justification has been provided and I do not consider it to be reasonable or necessary to withdraw those rights.

Conclusion

29. For the reasons given above, the appeal scheme complies with the development plan. The appeal is therefore allowed.

J Downs

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plan 19 5137 04 insofar as it relates to access.
- 5) Detailed plans shall accompany the reserved matters submission indicating existing ground levels, finished floor levels of all dwellings and associated structures, road levels and any proposed alterations to ground levels. Thereafter the development shall proceed in accordance with the approved details.
- 6) Demolition, construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.
- 7) A landscape management plan for all landscape areas not within private gardens, including management responsibilities and maintenance schedules, shall be submitted to and approved by the Local Planning Authority prior to the first occupation of any of the dwellings hereby approved. The development shall be carried out in accordance with the approved plan.
- 8) Pedestrian intervisibility splays having the dimensions of 2 m by 2 m shall be safeguarded at the drive entrance/exit such that there is no obstruction to vision at a height exceeding 1m above the nearside channel level of the adjacent highway.
- 9) The parking/manoeuvring facilities shown on the approved plan shall be surfaced in a solid bound material and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.
- 10) Vehicular and pedestrian gradients within the site shall not exceed 1:12.
- 11) No development shall take place until:
 - (a) Full foul and surface water drainage details which includes all surface water being collected and disposed of within the site with no discharge onto the adjacent highway, a scheme to reduce surface water run off by

at least 30% and a programme of works for implementation, have been submitted to and approved in writing by the Local Planning Authority:

(b) Porosity tests are carried out in accordance with BRE 365, to demonstrate that the subsoil is suitable for soakaways;

(c) Calculations based on the results of these porosity tests to prove that adequate land area is available for the construction of the soakaways;

Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development.

- 12) No development shall take place until a report detailing the findings of an intrusive site investigation in compliance with Construction Industry Research and Information association publication C758D (Abandoned mine workings manual) (where applicable) shall be submitted to and approved in writing by the Local Planning Authority. The site investigation and report shall be undertaken by a suitably qualified person, evaluate the ground conditions, determine any actual coal mining legacy risks and specify any recommended mitigation. The development shall be carried out in accordance with the approved details.
- 13) The Development shall be carried out in accordance with the mitigation and enhancement measures detailed in Sections 6.3 and 6.4 of the Preliminary Ecological Appraisal (PEA) dated 20/05/2020 by Middleton Bell Ecology.
- 14) The number of dwellings hereby approved shall not exceed 5.

[ENDS]