The Planning Inspectorate

Appeal Decision

Site visit made on 6 February 2018

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2018

Appeal Ref: APP/R4408/17/3189614
Stonehaven, Higham Lane, Higham, Barnsley S75 3LA

- 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 and Mrs Bamgboye against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2017/0345, dated 9 March 2017, was refused by notice dated 19 May 2017.
- The development proposed is a single dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline form with all matters reserved for future consideration, apart from access. The appellants submitted a site and location plan with the planning application and I have had regard to this plan in determining this appeal. I have treated any details relating to the reserved matters as being illustrative only.

Main Issues

3. The main issues are the effect of the proposal on (i) the amenity value of the protected trees; (ii) the living conditions of the future occupiers with regards to light, noise and privacy; (iii) the living conditions of the existing occupiers of 'Stonehaven' by way of visual impact and light; and (iv) the character and appearance of the area.

Reasons

Trees

4. The appeal site comprises the majority of the garden area for Stonehaven. The garden contains significant tree cover towards its southern and eastern boundaries. A row of conifers are found along the southern boundary with a haulage yard. Set in from this boundary is a group of mainly maples. Another group is found adjacent to the eastern boundary. These groups are protected by the Tree Preservation Order 9/2000 Stone Haven, Higham Lane, Dodworth (TPO).

5. The maples, in particular, are attractive specimens and appreciably contribute towards their surroundings. This is recognised by their inclusion in the TPO. A

number of these trees are visible from Higham Lane and positively contribute towards the streetscene. The Council's Designing New Housing Development Supplementary Planning Document (2012) (SPD) also states that the Council will expect mature trees to be incorporated into the design and layout of the development, and retained, wherever possible, including for their visual value.

6. With their canopy spread, these trees markedly overhang the site and having regard to the proportions and shape of the site, I am not persuaded that the proposed dwelling could be set back a substantially sufficient distance so as not to be affected by heavy shading. As a consequence, this would be likely to result in future pressures from the occupiers for the trees to be lopped, topped or felled. This would substantially reduce their amenity value.

7. The appellants' tree survey[1] also indicates that some works would be necessary to the trees, and that in the case of one of the maples, the indicative siting of the dwelling as shown on the site plan would infringe into its root protection. Whilst the tree survey considers the trees are sufficiently robust to withstand these works and these details are illustrative only, this further demonstrates, in my view, the potential for unsatisfactory effects on the trees. Even limited removal would be detrimental to their amenity value and this would not be reflective of the protection afforded by the TPO. Nor would this be outweighed by the potential for the planting of new trees or landscaping.

8. I conclude the proposal would have an unacceptable effect on the amenity value of the protected trees. As such, it would not comply, in this regard, with 'Saved' Policy H8D of the Barnsley Metropolitan Borough Council, Barnsley Unitary Development Plan (2000) (UDP) which states that infill, backland or tandem development involving single or a small number of dwellings within existing residential areas will only be granted where development would not result in harm to the local environment. Similarly, it would not comply with the SPD, as regards its guidance on trees.

Living Conditions- Future Occupiers

9. The heavy shading caused by the proximity of the trees would also be likely to significantly reduce light levels to the proposed dwelling. The SPD states that housing development must ensure that high standards of light are provided for proposed residents. Given the extensive nature of these trees, it would be likely that some windows would face towards the trees, with the potential to make the associated rooms unduly gloomy. The associated living conditions of the occupiers would therefore be likely to suffer from a lack of sufficient light.

10. The line of conifers separates the site from the haulage yard. During my site visit, noise associated with this neighbouring use was apparent. I have no evidence before me which sets out how this is proposed to be effectively mitigated and, in having regard to the proximity of the site to this boundary, I consider the living conditions would also be unduly affected by noise.

11. As regards the potential for overlooking from Stonehaven, as this dwelling is principally single storey, this could potentially be addressed by new boundary treatment, despite the difference in levels between the two properties. Although the levels of privacy could, therefore, be likely to be adequately

[1] Arboricultural Report & Impact Assessment to BS5837: 2012 (March 2017).

protected, this would not address the harm I have identified concerning light and noise.

12. I conclude the proposal would have an unacceptable effect on the living conditions of the future occupiers with regards to light and noise. It would not comply, in this regard, with 'Saved' Policy H8A of the UDP which states that new dwellings must ensure that the living conditions and overall standards of residential amenity are provided to an acceptable level for new residents, as well as with 'Saved' Policy H8D of the UDP and Policy CSP29 of the Council's Core Strategy (2011) (CS) as far as these seek to provide for the living conditions of future occupiers, and the associated guidance in the SPD concerning light.

Living Conditions – Existing Occupiers

13. The existing dwelling at Stonehaven is located in reasonably close proximity to the proposed site boundary, with an intervening narrow patio and garden area. This dwelling also contains significant amounts of fenestration along the long elevation that faces towards the site and, with this aspect, the site appreciably contributes to its living conditions. With the proximity of the site boundary and the associated creation of a new dwelling plot, the outlook over the garden would be markedly reduced.

14. With the positioning of the site to the south of Stonehaven, and the close proximity of the existing dwelling to the boundary, there is also the potential for this side of the dwelling and the remaining garden area to suffer from overshadowing from the proposed dwelling. Although the appellants consider the dwelling could be single storey, I have no evidence before me that confirms this would be the case, and nor does it give me a sufficient degree of confidence this would address living conditions. Similarly, if the proposed dwelling was moved substantially away from the boundary to reduce effects on living conditions, this would have the potential then to cause further harm to the protected trees.

15. The SPD sets out guidance in respect of external spacing standards and it acknowledges that, in some cases, higher standards than its guidelines will be required. With the proximity of the existing dwelling to the boundary, and the significant reduction in garden space and the aspect which this side of the dwelling enjoys over the site, I consider this is where such a circumstance over higher standards applies in order to properly protect the existing living conditions. Moreover, the SPD states that development must ensure that high standards of outlook are provided for existing residents, and that the overbearing or overshadowing effect of new buildings on an existing dwelling or its garden are to be avoided. This would not be achieved by the proposal.

16. I conclude the proposal would have an unacceptable effect on the living conditions of the existing occupiers of Stonehaven by way of visual impact and light. It would not comply, in this regard, with 'Saved' Policy H8D of the UDP, which states that planning permission will only be granted where development would not result in harm to the amenities of local residents, as well as Policy CSP29 of the CS, as far as this seeks to protect living conditions, and the associated guidance in the SPD.

Character and Appearance

17. Stonehaven forms part of a small cluster of dwellings that are set back from Higham Lane, along a shared access. Apart from the haulage yard, the immediate area is principally residential in use.

18. The proposed dwelling, when viewed from the streetscene, would be set back by the alignment of the access road and would simply add to the small cluster of dwellings along this road, despite that it would be to the front of Stonehaven. As such, its positioning would broadly reflect the development pattern in the area. I consider, therefore, it would be unlikely to appear unduly intrusive, having regard to the prevailing character of its surroundings.

19. The proposal would not have an unacceptable effect on the character and appearance of the area and, in this regard, it would comply with 'Saved' Policies H8A and H8D of the UDP, Policy CSP29 of the CS and the SPD, which collectively seek to protect local character. This would not, though, address the harm to the amenity value of the protected trees.

Other Matters

20. The appellants have reaffirmed that the application was made in outline form, with details of access to be considered. However, as an outline approval would form the planning permission for the proposal, it is reasonable to consider at this stage whether or not the site can likely accommodate the proposal in relation to the main issues that have been raised. Similarly, whilst the site lies in a Housing Policy Area under the UDP, and that the appellants inform that it was always the intention to erect a further dwelling on the site, this does not negate the requirement to consider the relevant planning considerations, as I have set out above

21. There would also be conflict with both the social and environmental roles of sustainable development under paragraph 7 of the National Planning Policy Framework because of the harm, respectively, to the living conditions that would arise and to the amenity value of the protected trees. The Council considered the proposal to be acceptable with regard to highways safety issues, and I see no reasons to disagree. However, this does not address the concerns that I have identified.

Conclusion

22. The proposal would have unacceptable effects with regard to the amenity value of the protected trees, on the living conditions of the future occupiers and on the existing occupiers of Stonehaven. This harm weighs significantly against the proposal. It would be acceptable with regards to character and appearance, although as a housing development would be expected to achieve this, it attracts neutral weight. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm. For these reasons, the appeal should be dismissed.

Darren Hendley

INSPECTOR