



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: The Head of Planning

Date: 10 January 2023

Subject: RECORD OF PLANNING APPEALS
SUBMISSIONS & DECISIONS

Author of Report: Abby Hartley

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

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 the demolition of front porch and rear lean-to, erection of two-storey front extension, two/single-storey rear extension and re-rendering of the dwellinghouse at 20 Smalldale Road, Sheffield, S12 4YB (Case No: 22/02678/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 the erection of 15m monopole with associated cabinets and associated ancillary works (Application for determination if approval required for siting and appearance) at land at junction with Gleadless Common and Glade Lea, Sheffield, S12 2UN (Case No: 22/01703/TEL).

(iii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the provision of a first-floor rear roof terrace with steel/glass balustrade (Retrospective Application) at 3 Linnet Way, Sheffield, S6 6GE (Case No: 22/01595/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 the demolition of outbuilding, erection of two flats with associated parking at adjacent 214 Barnsley Road, Sheffield, S4 7AF (Case No: 22/01402/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 the erection of a two-storey side extension and single-storey front extension and alteration of garden to form off-street parking to dwellinghouse at 41 Cherry Walk, Sheffield, S35 1QR (Case No: 22/00618/FUL).

3.0 APPEALS DECISIONS – DISMISSED

(i) To report that an appeal against the delegated decision of the Council to

refuse planning permission for the construction of new vehicular access including formation of dropped kerb at 67 Sothall Green, Sheffield, S20 1FG (Case No: 22/01597/FUL) has been dismissed.

Officer Comments:-

The Inspector identified the main issue as being the effect of the development on pedestrian safety.

He noted the property was a mid-terraced dwelling with a small front garden and grass verge and footway between it and the carriageway of Sothall Green.

The area in front of the dwelling intended for parking would be 4.4m x 4.1m and the Inspector noted the Council's guidance was for parking space of 5m x 3.2m where pedestrian access is required to the dwelling as was the case here. Officer's concern was that the limited dimensions would lead to vehicles overhanging the footway, which would affect pedestrian safety.

The Inspector agreed with this concern in addition to necessary reversing manoeuvres which would add to the potential risks and dismissed the appeal concluding there was conflict with policy H14(d) of the UDP and paras 110, 111, and 130 of the NPPF.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the erection of two-storey side and rear extension, and extension of rear decking at 156 Bevan Way, Sheffield, S35 1RJ (Case No: 22/01436/FUL) has been dismissed.

Officer Comments:-

The Inspector considered the main issue to be the effect of the proposed development on the character and appearance of the host dwelling and the street scene.

They noted that the existing houses have a very uniform appearance, with gable end roofs and brick walls, with no evidence of render on external walls or hipped roof arrangements.

The house is in a prominent corner location and the style and size of the extension would not be subordinate to the main house, instead appearing incongruous and out of keeping with the design of the main house. The symmetrical design of the pair of semis would also be lost. It was concluded that the combined side and rear extension would appear overly large and disproportionate. The addition of render would make the house even more obtrusive.

In conclusion the proposal was considered contrary to Core Strategy Policy CS74 UDP Policies BE5 and H14; the Supplementary Planning Guidance on Designing House Extensions and Paragraph 130 of the NPPF.

(iii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the conversion and alterations to farmhouse to form 4no. apartments (Use Class C3) including erection of single-storey rear extension, reconstruction and raising the roof ridge height, rear dormer window, Juliet balconies to side and rear, additional first floor side window, formation of associated parking and landscaping works at Park View Farm, 33 Hemsworth Road, Sheffield, S8 8LJ (Case No: 22/00891/FUL) has been dismissed.

Officer Comments:-

The Inspector identified the main issue as being the effect of the development on the character and appearance of the host building and the area.

She noted the host building was a former farmhouse angled towards the junction of Hemsworth Road and Park View Mews, with the traditional farmhouse integrated into but contrasting with an adjacent new housing development and having prominence in the street scene.

The Inspector noted the prominence of the elevations to be amended and in terms of scale, eaves heights, bulk and window alignment considered they had a poor relationship with the existing building. The location of parking and bin storage areas would prevent any meaningful filtering of views through landscaping.

She agreed with officers that all these factors led to a more visually dominant building and a loss of the simple form of the original building to the detriment of its appearance and conflict with policies BE5 and H14 of the UDP, CS74 of the Core Strategy, and the NPPF.

She acknowledged the lack of 5 year housing supply and in applying the planning balance required by paragraph 11 of the NPPF considered the provision of 4 flats would contribute to supply and would provide economic and social benefits but these would be limited but that the adverse impacts upon the character and appearance of the area would significantly and demonstrably outweigh those benefits and dismissed the appeal.

(iv) To report that an appeal against the delegated decision of the Council to refuse planning permission for the erection of two/single-storey side extension with hip to gable roof and integral garden store (Re-Submission of planning application number 21/00008/FUL) at 42 Westfield Crescent, Sheffield, S20 5AQ (Case No: 21/03453/FUL) has been dismissed.

Officer Comment:-

The Inspector identified the main issue as being the effect of the development on the character and appearance of the area.

He noted the property was a semi-detached dwelling with a hipped roof in an

area of similar properties though some with gable roofs, and that the property had a generous side garden to Ash Street with an absence of built form typical of the character of the area.

He agreed with officers that despite the use of a hipped roof form the extension would significantly and unacceptably erode the character of the area by building on the entire side garden, in conflict with UDP policy H14, supplementary planning guidance for house extensions and paragraph 130 of the NPPF.

(v) To report that two appeals against the delegated decisions of the Council to refuse planning permission for:

Appeal A: Removal of telephone kiosk and erection of street hub (Case No: 21/03290/FULTEL); and

Appeal B: Digital LCD display screen to Street Hub unit (Case No: 21/03291/HOARD)

at pavement at front of Hallam University, Arundel Gate, Sheffield, S1 2PN have both been dismissed.

Officer Comments:-

The Inspector considered the main issue to be the effect of the proposal on public safety, especially the safe operation of the highway.

They noted that the site is adjacent to an intersection for pedestrians and cyclists travelling along Arundel Gate or across from the direction of Sheffield Hallam University to the city centre.

Whilst it was noted that the existing telephone kiosk to be removed was tucked away, this proposal would be sited further into the footway and cause conflict between pedestrians and cyclists as a result, as well as reducing visibility, making collisions more likely.

As a result, it was concluded that the proposal would harm public safety, be contrary to UDP Policy BE10, Core Strategy Policy CS60 and the NPPF which seeks to create safe places.

(vi) To report that an appeal against the delegated decision of the Council to refuse planning permission for an application for Lawful Development Certificate for the erection of a conservatory/greenhouse to be used in connection with the adjoining dwellinghouse (Application under Section 192) at Moor View Farm, Ecclesall Road South, Sheffield, S11 9QE (Case No: 21/03178/LD2), and an application for costs have been dismissed.

Officer Comments:-

Substantive Decision

The Inspector identified the main issue as being whether the Council's decision to refuse the Lawful Development Certificate (LDC) was well founded.

Outbuildings such as the conservatory/greenhouse applied for can be built within the curtilage of a dwelling (subject to criteria including dimensions) without planning permission. The LDC sought confirmation that one such building met the criteria. Officers refused the application because they considered the land subject of the application did not form part of the curtilage of the dwelling (Moor View Farm) as is required to be the case.

The appellant relied upon the grant of a previous LDC in 2018 for use of (the) land as 'domestic curtilage to Moor View Farm', however the Inspector noted (and agreed with officers) that curtilage 'is a concept in law rather than a use of land' and whilst the LDC had confirmed the use of the land for residential purposes it had not confirmed it was curtilage.

What is 'curtilage' is a matter of fact and degree, as established by caselaw and a matter for the decision maker on a case-by-case basis. She identified the need in this case to establish first whether the intended outbuilding was on land within the dwelling's curtilage. She noted the dwelling was situated off an access road with its garden and an area of hardstanding within a well-defined stone walled boundary, beyond which is a V shaped area of land containing a pond and the site of the proposed outbuilding.

She noted a definite separation of the land and distinctly different characteristics with planted beds, decking, flagging and garden furniture surrounding the house and the grassland appearance of a paddock in the other. She drew on caselaw to confirm that to be curtilage the land must be intimately associated with the building and did not feel the V shaped land had this relationship.

She concluded that the land was not curtilage and that the Council's decision to refuse the LDC on this basis was well founded.

Costs Decision

The appellant claimed costs on the basis the previous LDC issued in 2018 had described the land as curtilage and that this must enable the LDC to be granted to allow the building of the outbuilding. They cite the Council's refusal to accept the LDC as unreasonable behaviour which are grounds for a costs award.

As the 2018 LDC cannot establish curtilage it was instead limited to establishing residential use. The appellant questioned why the Council had not rescinded the LDC under s97 of the Act and paid compensation (for a misleading description of the LDC when issued) but the Inspector identified that an LDC cannot be rescinded in this way, only if misleading or false statements have been submitted as evidence by applicants under s193(7).

Whilst the appellants frustration was noted by the Inspector she stated a mistake made by the Council in describing the LDC is not grounds for unreasonable behaviour, and the Council had sought to remedy it by resisting the proposal contained in the LDC and although apparently in conflict with an earlier decision was entirely rational.

She concluded there had been no unreasonable behaviour by the Council and dismissed the appeal.

(vii) To report that two appeals against the delegated decisions of the Council to refuse planning permission for:

Appeal A: Removal of 2no. kiosks and erection of 1no. Street Hub (Case No: 21/02482/FULTEL); and

Appeal B: Two digital LCD display screens to Street Hub unit (Case No: 21/02483/HOARD)

at pavement outside Copthorne Hotel, Bramall Lane, Highfield, Sheffield, S2 4QZ have both been dismissed.

Officer Comments:-

The Inspector considered the main issue to be the effect of the street hub and advertisement on public safety with particular regard to the safe and efficient operation of the highway.

He noted the location on the footway adjacent to the Bramall Lane football ground and turnstiles, and the entrance to the Copthorne Hotel, and that the footways are relatively clear of street furniture and clutter. Nonetheless he considered the footway was relatively narrow and the structure would impinge considerably on available pedestrian space and the adjacent private forecourt whilst used freely at present could not be relied upon to remain.

He considered this would present pedestrian safety concerns at busy times on matchdays such that it would be harmful to public safety in conflict with UDP policy BE10, MU11, Core Strategy policy CS74, and para 112 of the NPPF and that the benefits of improved connectivity associated with the structure would not outweigh this harm.

4.0 APPEALS DECISIONS – ALLOWED

(i) To report that an appeal against the delegated decision of the Council to refuse planning permission erection of 17.5 metre monopole with 6 no. antennas, 1 no. GPS module, 2 no. equipment cabinets, and 1 no. meter cabinet (Application for determination if approval required for siting and appearance) at land at junction with Carter Knowle Road, Carter Knowle Avenue and Montrose Road, Sheffield, S7 2EF (Case No: 21/04733/TEL) has

been allowed.

Officer Comment:-

The Inspector identified the main issues as the effect of the siting and appearance of the proposed mast and equipment on the character and appearance of the area and, whether any harm is outweighed by the need, taking into account any suitable alternatives.

They noted the largely residential (and partly commercial) character of the area and the notable street furniture already present in the immediate vicinity including lighting columns and two other telecommunications installations which the Inspector felt would avoid the proposed installation introducing an alien form of development. They also felt that in many views mature trees would provide a screening effect.

The Inspector acknowledged that the mast is taller than other structures and that at close quarters the mast would be dominant and the 3 cabinets would add to existing street based clutter alongside other existing equipment, concluding there would be moderately adverse visual effects on the character of the area.

In regard to the justification for the site selected, the Inspector concluded sufficient evidence had been provided of need and lack of alternatives. Given therefore the benefits of improved telecommunication they considered this outweighed the moderate harm, and the appeal was allowed.

(ii) To report that two appeals against the delegated decisions of the Council to refuse planning permission for:

Appeal A: Removal of telephone kiosk and erection of 1x Street Hub (Case No: 21/03284/FULTEL); and

Appeal B: Digital LCD display screen to Street Hub unit (Case No: 21/03285/HOARD)

at pavement outside 45-47 Fargate, Sheffield, S1 2HD have both been allowed.

Officer Comment:-

The Inspector considered the main issue to be the effect of the proposal on the visual amenity of the area, character and appearance of the conservation area and the setting of the nearby listed building.

They noted that the proposal would be similar in size to the telephone kiosk it would replace, albeit more prominent, but in the context of other commercial adverts and street furniture, concluded that it would not be incongruous in the setting and would have a neutral impact on the Conservation Area. He was not persuaded by the Council's argument that Fargate is about to

undergo significant change in the form of a planned public realm enhancement, as part of the Future High Streets Fund, and that this proposal would be at odds with the aims of reducing clutter and making substantial environmental improvements.

He therefore concluded that the proposals were acceptable and in conformity with the Local Plan and the National Planning Policy Framework.

5.0 CIL APPEALS DECISIONS

Nothing to report.

6.0 NEW ENFORCEMENT APPEALS

Nothing to report.

7.0 ENFORCEMENT APPEALS DISMISSED

Nothing to report.

8.0 ENFORCEMENT APPEALS ALLOWED

Nothing to report.

9.0 RECOMMENDATIONS

That the report be noted.

Michael Johnson
Head of Planning

10 January 2023

This page is intentionally left blank