

PLANNING APPEAL STATEMENT OF CASE

s78 of the Town and Country Planning Act (1990)

FORMER MILL CHIMNEY SITE

ADJ GLENLEA

SHEFFIELD ROAD

NEW MILL

HOLMFIRTH

HD9 7EL

Ref: KIRKLEES COUNCIL

Application No: 2019/62/93596/W

Appellants: MR AND MRS B MATTHEWMAN

MAY 2020

CLIENTS:

This appeal statement has been prepared by Andy Rushby BA(Hons), BTP, MBA, MRTPI, who is the Principal of Assent Planning Consultancy Ltd, on behalf of the appellant.

Reasons for Refusal (Decision Notice dated 21 April 2020)

1. The proposed development, due to the layout, siting and scale submitted, would fail to integrate with the existing built environment or to reflect the pattern of development in its immediate surroundings. The development would therefore be harmful to the character and appearance of the area and contrary to Policy LP24 (a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

2. Due to its siting, scale, and elevated position Plot 2 would have an overbearing impact on the amenities of the occupiers of 'Glenlea' to the north of the site. The result of this would be an adverse loss of amenity to the existing and future occupiers of this property. This is contrary Policy LP24 (b) of the Kirklees Local Plan and Policy in Chapter 12 of the National Planning Policy Framework.

Appellant's Case

In summary, it is contended by the appellants that the LPA has erred in its consideration of the alleged lack of integration with the surrounding environment and has unreasonably determined that the proposed pattern of development is not representative of the surrounding area. In addition, the appellants hold that the proposed development will not have an unacceptable effect on the residential amenity of the neighbouring residential property nor on the future occupiers of the either the proposed property nor the existing adjacent property.

The appellants note that the LPA has accepted that residential development is acceptable in principle on this site and the delegated officer report states that -

“The site forms a small area of land on the edge of an established residential area. The area of land is unkempt and has limited value in terms of what it offers in terms of visual amenity. It is considered that subject to location, scale and design, some form of residential development could be accommodated contributing to the provision of housing through a windfall site and as such can be supported in principle”.

The appellant contends that the site is previously-developed land for the purposes of the NPPF and that, despite some limited re-vegetation, the site remains a “brownfield” site (previously used in connection with the industrial mill buildings across Sheffield Road).

Whilst the LPA sought amendments to the layout of the site due to its assertions regarding amenity and site layout, the appellant was unable to acquiesce to the proposal to reduce the number of units, as this would result in the probable loss of one of the units which would, in the opinion of the appellants, result in an ineffective use of land contrary to section 11 of the NPPF “Making effective use of land”.

In assessing the the proposed scheme, the appellant holds that the following policy matters are critical to any conclusions as the to the merits of the proposed development.

Reason for refusal 1

The Revised NPPF 2019 states in Section 11: “Making effective use of land” (author’s emphasis) -

117. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way

that makes as much use as possible of previously-developed or 'brownfield' land

118. Planning policies and decisions should:

.....

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

.....

Achieving appropriate densities

122. Planning policies and decisions should support development that makes efficient use of land, taking into account:

a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;

b) local market conditions and viability;

c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.

In Section 12: "Achieving well-designed places", the Revised NPPF states (author's emphasis) -

127. Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The Council's Local Plan contains policy PLP24 "Design" (extract below)

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Proposals should promote good design by ensuring:

a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape;

Policy PLP7 "Efficient and effective use of land and buildings" states (author's emphasis) -

Housing density should ensure efficient use of land, in keeping with the character of the area and the design of the scheme:

Given the national and local planning policies set out above, the appellant holds that the critical consideration is making the most effective use of land, providing that it does not materially harm the character and appearance of the surrounding area nor lead to unacceptable residential amenity issues for neighbouring properties or for future users of the site.

With regard to density, the proposed scheme provides for a density of approximately 21 units per hectare, which is considered to be an acceptable level of density for a site that transitions from a built-up area to the openness of the green belt. If a scheme for two units was proposed, this would reduce the density to only 15 units per hectare, which clearly does not make an effective or efficient use of land in this location.

Rather ironically, the delegated officer report refers to the proposed development being “out of keeping” with the (author’s emphasis) “principally smaller terraced units, **at a higher density**, located along Sheffield Road...”. The appellants hold that this small run of terraced houses (four in total) is actually not representative of the character of the area, and an aerial view of the site (Appendix 1) clearly shows development a little further to the north of the site that displays a much more incremental and haphazard form of historical development, including development off Sheffield Road (at Water Row and Sude Hill Dike) that is actually more representative of the area than the small run of linear development adjacent to the appeal site.

As such, the appellants contend that the density and form of the proposed development should be acceptable in principle. The delegated officer report refers to an assertion by the LPA that “the (proposed) dwellings to the rear are at odds with the established character and general linear form” and that “Plots 2 and 3 do not integrate with the pattern of development in the area”. The appellants would accept this assertion if the proposed development lay in the middle of an extended linear pattern of development, thus forming an intrusion into this pattern. However, the proposed site lies at the end of this linear pattern and therefore is not intrusive nor out of context - in fact, the proposed development, by forming effectively a terminus to this linear pattern, actually transitions the

built form in this area more effectively into the openness of the green belt beyond by providing a “full stop” or “rounding off” of development.

With regard to the scale of the proposed development and its relationship to the characteristics of the local area, the appellants contend that the bulk, scale, and massing of the proposed units are not out of context in the area. For example, there is a substantial detached residential property just to the north at the junction of Sheffield Road and Water Row, and there are similar properties at Sude Hill Dike. In addition, the adjacent property Glenlea has been substantially enlarged and there are large mill buildings opposite the site. Therefore, the appellant contends that substantial and significant buildings are present in the wider area and that the scale of the proposed development would not be out of context in this part of New Mill.

Finally, the appellants contend that the LPA has not given the “substantial weight” required by para 118 c) of the NPPF to the “value of using suitable brownfield land within settlements for homes” in the determination of the application. In fact, the delegated officer report does not even refer to section 11 of the NPPF in its section on National Policies and Guidance, simply to policy LP7, and even this policy is not referred to in the assessment of the application by the LPA.

To conclude, the appellants hold that the proposed development does not fail to integrate with the characteristics of the local area and does, in fact, reflect the wider pattern of development in the area. As such, the appellants contend that the development would not be harmful to the character and appearance of the area. Therefore, the appellants hold that the first reason for refusal cannot be substantiated by the LPA and that, in fact, the proposed scheme meets both national and local planning policies in terms of density and design. Furthermore, it is held by the appellants that the overall assessment of the proposed development by the LPA is fundamentally flawed by the omission of any consideration of the “substantial weight” that should be given to the efficient use of land which, when aggregated with the rebuttal of the LPA’s first reason for refusal as set out above, leads to the first reason for refusal being unsubstantiated.

Reason for refusal 2

With regard to the alleged unacceptable impact on the residential amenity of neighbouring residential properties, the appellants contend that any such impact on the adjacent property Glenlea would be very minimal and, in any event, capable of sufficient mitigation so as to make the proposed development acceptable.

The proposed development has been designed sensitively to ensure that any impact on the residential amenity of Glenlea is mitigated as far as is practicable, given the topography of the proposed site and the limited capacity to set out the three proposed units to maximise the effective use of the site. The appellants provided reasonable amendments as part of the on-going determination of the application (such as amending fenestration details and internal layouts) but could not agree to the removal of a plot from the scheme for the reasons set out above in terms of the effective use of land.

The second reason for refusal refers specifically to plot 2 but the delegated officer report also suggests concerns with Plot 1 in terms of the location of outdoor amenity space and the alleged potential impact of off-site protected trees on Plot 3. With respect to Plot 1, the appellants hold that there is sufficient amenity space to the front of the building to allow a good level of residential amenity and privacy. With regard to Plot 3, the appellants contend that the proposed dwelling has habitable windows looking east and west, with secondary windows on the side elevations to ensure there is no future pressure to fell any trees on the adjacent land. In addition, the proposed site is separated from the protected trees by a private drive. It should be noted that neither Plot 1 nor Plot 3 is specifically mentioned in the reason for refusal and the appellants agree with the LPA's delegated officer report that there is insufficient reason for the matters above to form a reason for refusal.

With specific regard to Plot 2, the LPA asserts that the siting of Plot 2 and changes in land levels would have "an overbearing impact on the adjoining occupants" but provides no objective evidence or justification for this statement. Detailed sections have been provided by the appel-

lants as part of the application that clearly show that Plot 2 is set at a lower level than Plot 3 and that, in relation to Glenlea, Plot 2 is set at ninety degrees to the rear garden area of Glenlea, the nearest point of the dwelling on Plot 2 being some 16 m from the nearest point of the extended Glenlea. In addition, the positioning of the dwelling on Plot 2 immediately adjacent to the existing detached garage of Glenlea, coupled with proposed boundary treatments (a close boarded fence and a hedge) means that, in the opinion of the appellants, the overall visual impact of the proposed dwelling in terms of it being somehow “overbearing” is comprehensively mitigated. Such mitigation is held by the appellants to be at a point where the proposed development causes little harm to the residential amenity of the occupiers of Glenlea and that any limited harm is outweighed by the development of this previously developed site.

To conclude, the appellants contend that the second reason for refusal has not been evidenced nor substantiated by the LPA and that, in fact, the proposed scheme is not overbearing and meets both national and local planning policies in terms of the protection of residential amenity.

Conclusion

The National Planning Policy Framework states, in Section 11: “Making effective use of land” para 122 that “Planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area’s prevailing character and setting and the importance of securing well-designed, attractive and healthy places”.

The NPPF is so concerned with making the most effective use of land that it gives it a whole section to itself (as it does to other planning matters such as green belts and heritage). In this context, the appellants hold that the LPA has not given any weight to this issue and certainly it has not given “substantial weight” as set out in the NPPF. Given the above facts, the appellants hold that the proposed development will maintain the prevailing character of this residential area and will intro-

duce a well-designed and attractive form of development into the area whilst making the most effective and efficient use of this windfall site and mitigating as far as possible any impact on the residential amenity of the neighbouring residential property.

Therefore, for the reasons set out above, it is respectfully requested that this appeal is allowed.

Should the Inspector be minded to allow this appeal, the appellants have no objection to the Inspector attaching any conditions to the permission as deemed necessary.