

Report of the Director of Planning and Regeneration Service

ITEM NO. SUBJECT

1 Ref: RB2014/1403

Page No. Appeal Decision – Dismissed
45 Appeal against refusal of planning permission for change of use
to hot food take-away (Use Class A5) at 79 Bawtry Road
Bramley Rotherham S66 2TN

2 Ref: RB2014/1296

Page No. Appeal Decision – Dismissed
49 Appeal against refusal of planning permission for the increase in
roof height to form two storey dwelling house including single
storey rear extension and flue to side (amendment to
RB2014/0809) at 20 Manor Way, Todwick, Sheffield S26 1HR

| | |
|---------------------------------------|---|
| Item 1 | |
| Application Number RB2014/1403 | |
| Proposal and Location | Appeal Decision – Dismissed Appeal against refusal of planning permission for change of use to hot food take-away (Use Class A5) at 79 Bawtry Road Bramley Rotherham S66 2TN |
| Recommendation | That the decision to dismiss the appeal be noted. |



Background

The application was presented to members at Planning Board on 8 January 2015 and was refused against officer recommendation. Members considered that the proposed change of use would be detrimental to highway safety and neighbour amenity. The reasons for refusal are copied out below:

1. The Local Planning Authority consider that the proposed hot food takeaway would generate additional parking demand which could not be satisfactorily accommodated within the existing on street parking bays in the area and which

would result in vehicular/pedestrian conflict as a consequence of indiscriminate parking /reversing manoeuvres in Cross Street by customers/delivery vehicles/employees, in the vicinity of the signal controlled crossroads with A631 Bawtry Road, including the footway fronting these and adjacent retail premises, to the detriment of highway safety contrary to the NPPF.

2. The Local Planning Authority consider that the proposed use of the building as a take-away would be detrimental to the amenities of the occupiers of nearby residential properties due to the noise and general disturbance that would be generated from the site and from customers visiting the premises and waiting in the vicinity of the building particularly at unsocial hours contrary to Policy HG1 'Existing residential areas' of the UDP and the principles of the NPPF.

An appeal against the refusal was submitted and I have now been informed that the appeal was dismissed.

Inspector's Decision

The Inspectors comments on the appeal are as follows:

Highway safety

"The appeal property is a retail unit next to the corner of Bawtry Road and Cross Street. Bawtry Road is a very busy dual carriageway carrying in excess of 20,000 vehicles in both directions in a twelve hour period. Cross Street links Bawtry Road with the centre of Bramley a short distance away and carries over 800 vehicles past the appeal site during the same time.

The property is within an accessible location in a residential area. As a result, some customers of the proposed hot food takeaway would arrive on foot. However, given the convenience of the car, and the need to transport food home quickly so that it can be eaten hot, it is a reasonable assumption that a significant number of customers would visit the proposed takeaway by car.

The appellant relies upon the availability of on street parking for future customers of the proposed takeaway. There was no available on road parking spaces along Cross Street during my site visit which occurred during the day.

The proposed takeaway would open at 3pm and close at 11.30pm. In the evening when the takeaway would be busy the appellant's view is that with the few shops at this end of Cross Street shut, and businesses in the centre of Bramley closed, there would be sufficient on street parking available for customers. However, the evidence of local residents familiar with the area is that in the evenings and weekends a shortage of on road parking continues to exist. No parking survey has been carried out to clarify this matter.

The centre of Bramley, which is only a short distance away, has a number of businesses such as takeaways that are open in the evening. In the Inspectors assessment, given the parking restrictions that apply in the centre, demand for on road parking on Cross Street is likely to continue into the evening when the proposed takeaway would be open. Furthermore, most residents on Cross Street do not have off road parking at the front of their houses. As a result, although private residential

parking is available to the rear, on street parking by reason of its convenience is also likely to be used by residents of the Street. For these reasons, the Inspector considers that a lack of on road parking along Cross Street is likely to continue into the evening.

As a consequence, the Inspector further considers that it is likely that some patrons of the proposed takeaway would decide to park illegally immediately outside the premises, especially as such short term parking would be difficult to enforce against. This would result in a significant risk of cars turning off Bawtry Road colliding with vehicles parked in such a manner. It would also interfere with the free flow of traffic. The lack of on road parking space could also manifest itself with customers choosing to park on the wide pavement by the unit. This would inconvenience and potentially obstruct pedestrians, especially those with pushchairs and wheelchair users. It would also increase the risk of vehicles and pedestrians coming into conflict as vehicles manoeuvre on and off the pavement.”

For all of these reasons, The Inspector therefore concludes that the proposed development would unacceptably harm highway safety. This would be contrary to the National Planning Policy Framework (‘the Framework’) which in relation to new development seeks safe and suitable access.

Living conditions

“The end of Cross Street where the appeal unit is located experiences traffic noise from Bawtry Road. Houses at this end of the street also face a public house and its car park. As a result, some noise and disturbance into the late evening forms part of the character of the immediate area. Furthermore, the houses next to the appeal site on Cross Street are set well back from the highway behind relatively long front gardens. In this context, the noise of customers arriving and leaving the proposed takeaway would not increase the levels of noise and disturbance to the extent that the living conditions of local residents would be materially harmed.

In terms of anti-social behaviour, it is a reasonable assumption that takeaways will be well managed. If however it was to become the focus of such behaviour this could be dealt with by the powers of the police and the local authority. In relation to litter, this could be controlled by a condition requiring the provision of a litter bin.

With regard to cooking odour, the prevailing westerly winds would tend to blow smells away from the nearest houses. Nevertheless, in different conditions unabated cooking odours would have the potential to adversely affect the living conditions of those who live nearby. This could be overcome by the attachment of a condition requiring the installation and maintenance of a suitably designed extraction and filtration system.”

Taking all these matters into account, the Inspector therefore concludes that the proposed development would not materially harm the living conditions of nearby residents. It would therefore comply with the objectives of policies HG1 and ENV3.7 of the Rotherham Unitary Development Plan which seeks to prevent such harm. It would also comply with a core planning principle of the Framework which seeks to secure a good standard of amenity.

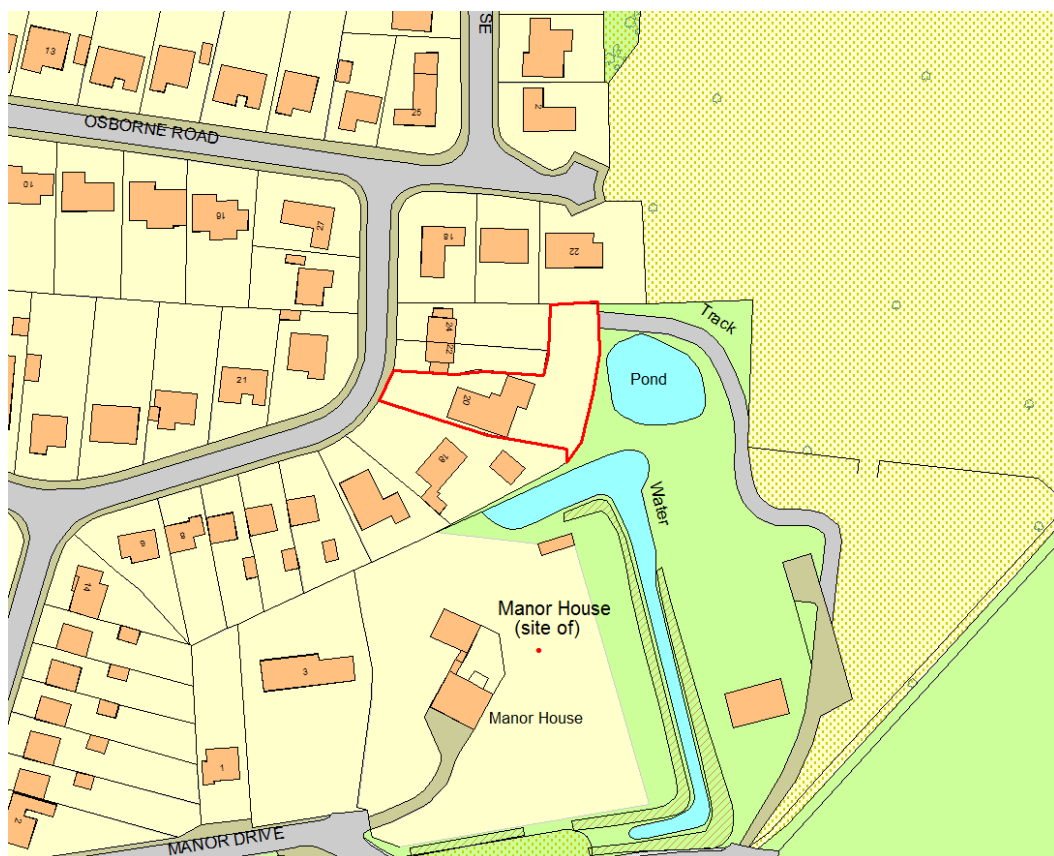
Other matters

The proposed development would include a new frontage to the unit and a flue to the rear. The Council considered that the new frontage would be well designed and that as the flue would be located to the rear it would not form a prominent part of the street scene. The Inspector agrees with this assessment and finds that the proposed development would complement the character and appearance of the area.

Conclusion

The Inspector concluded that notwithstanding his favourable findings in relation to the effect of the proposed development on the living conditions of nearby residents, and its effect on the character and appearance of the area, this does not overcome the unacceptable harm that would be caused to highway safety. He therefore concluded, having regard to all other matters raised, that the appeal should be dismissed.

| | |
|---------------------------------------|---|
| Item 2 | |
| Application Number RB2014/1296 | |
| Proposal and Location | Appeal Decision – Dismissed Appeal against refusal of planning permission for the increase in roof height to form two storey dwelling house including single storey rear extension and flue to side (amendment to RB2014/0809) at 20 Manor Way, Todwick, Sheffield S26 1HR |
| Recommendation | That the decision to dismiss the appeal be noted. |



Background

Following a site visit by the Planning Board on 19th February 2015 the application for a first floor upward extension was refused against officer recommendation. Members considered that the extension would be overbearing to the neighbouring resident at No. 22 Manor Way. The reason for refusal is copied out below:

01

The Council considers that the proposed development would have an overbearing impact on the occupiers of neighbouring properties and reduce natural light to the rear garden areas, particularly of 22 Manor Way. As such, the proposed development would be contrary to the advice in the National Planning Policy Framework.

An appeal against the refusal was submitted and I have now been informed that the appeal was dismissed.

Inspector's Decision

The Inspector noted that the application comprised of several elements:

- (1) A first-floor extension comprising bedrooms and a bathroom which would be set back from the existing front elevation and be about 6.8m high to the ridge.
- (2) A large single-storey extension comprising a family room, kitchen, utility room, and garage which would wrap around the side and rear of the existing bungalow and project about 1.7m beyond the existing rear elevation. It would be stepped back on the north side to align with No 22's boundary, and abut No 18's boundary on the south side.
- (3) A single-storey play room/dining room extension projecting a further 7.5m outwards into the rear garden, stepped back slightly from No 18's boundary.

With regards to the impact on the living conditions of neighbouring residents, the Inspector noted that Policy CS28 of the Rotherham Local Plan Core Strategy says proposals should respond to their context and be visually attractive. However, this is broadly based strategic policy and more detailed guidance on domestic extensions is given in the adopted Interim Planning Guidance: 'Householder Design Guide' (HDG). This says "it is not the Council's usual practice to support bungalows being altered to two-storey houses, as in most cases this would have a serious effect on neighbours' amenity and on the appearance of residential areas".

The Inspector stated his main concern related to the impact on the living conditions of the neighbouring properties either side of the application site at 18 and 22 Manor Way. The Inspector considered that "as a consequence of the cumulative effect of the various proposed extensions, particularly the upwards extension, and their proximity to the boundary, the extensions would appear visually dominant and obtrusive in relation to No 22." The Inspector further considered that the sense of enclosure, for the residents of No.22 would be increased and would lead to an unacceptable overbearing and oppressive impact when seen from their rear facing windows, and even more so from that property's rear garden. Although the Inspector considered that the setting back of the first floor element would mitigate its effect to some degree, this would be very marginal and insufficient to allay his concerns. Furthermore, the Inspector considered that the position of the proposed extensions on the south side of No. 22 would lead to overshadowing and a significant reduction in daylight to much of the rear garden, which is the private amenity space to that property.

With regards to the impact on No. 18 Manor Way, the Inspector noted that it is separated from No. 20 by a driveway and follows a similar building line (albeit at an angle). The proposed extensions would be located on the north side of that property, ensuring that there would be no direct overshadowing of the garden or loss of sunlight, and would not breach the "45 degree" rule in the Council's Householder Design Guidance. Therefore, there would be some effect on outlook though the Inspector considered that the effect on the living conditions of the occupiers of No. 18 would not be sufficiently harmed to warrant refusal for this reason alone.

The Inspector went on to state that he was satisfied that due to the orientation of facing windows and the position of habitable rooms, no direct loss of privacy would result in respect of either neighbouring property. Nonetheless, on the basis of the overbearing, overshadowing and oppressive effect on No. 22, the Inspector concluded that the proposal would materially harm the living conditions of the occupiers of that property to an unacceptable degree.

Conclusion

The Inspector concluded that with regard to the effect of the proposal on the character and appearance of the streetscene and area, and its effect on the adjacent Scheduled Ancient Monument of Todwick Manor House, owing to the separation distance and intervening vegetation, the proposal would not materially harm the setting of the Scheduled Ancient Monument. He also concluded that the extensions met an acceptable standard of design and owing to the mixed nature of Manor Way, would not harm the character and appearance of the surrounding area.

However, the Inspector agreed with the Council that the harmful effect of the proposal on the living conditions of the occupiers of No. 22 Manor Way represents a significant and overriding objection. As such, the proposal conflicts with National Policy in paragraph 17 of the Framework and advice in the Council's Householder Design Guide.