

Public Document Pack

To all Members of the

PLANNING COMMITTEE

AGENDA

Notice is given that a Meeting of the above Committee is to be held as follows:

VENUE Council Chamber, Civic Office, Waterdale, Doncaster
DATE: Tuesday, 25th April, 2017
TIME: 2.00 pm

BROADCASTING NOTICE

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Items for Discussion:

- | | PageNo. |
|---|----------------|
| 1. Apologies for Absence. | |
| 2. To consider the extent, if any, to which the public and press are to be excluded from the meeting. | |
| 3. Declarations of Interest, if any. | |

Jo Miller
Chief Executive

Issued on: Thursday, 13th April, 2017

Senior Governance Officer
for this meeting:

David M. Taylor
Tel: 01302 736712

4.	Minutes of the Planning Committee Meeting held on 4th April, 2017.	1 - 14
A.	Reports where the Public and Press may not be excluded.	
	<u>For Decision</u>	
5.	Schedule of Applications.	15 - 28
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7.	Appeal Decisions.	35 - 52
B.	Items where the Public and Press may be excluded in accordance with grounds specified in the Local Government Act 1972, as amended.	
8.	Enforcement Cases Received and Closed for the Period of 23/03/17 to 09/04/17 (Exclusion Paragraph 6).	53 - 62

Members of the Planning Committee

Chair – Councillor Iris Beech
Vice-Chair – Councillor Dave Shaw

Councillors George Derox, Susan Durant, John Healy, Eva Hughes, Sue McGuinness, John McHale, Andy Pickering, Alan Smith and Jonathan Wood.

Agenda Item 4.

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE

TUESDAY, 4TH APRIL, 2017

A MEETING of the PLANNING COMMITTEE was held at the COUNCIL CHAMBER, CIVIC OFFICE on TUESDAY, 4TH APRIL, 2017, at 2.00 pm.

PRESENT:

Chair - Councillor Iris Beech
Vice-Chair - Councillor Dave Shaw

Councillors George Derx, Susan Durant, Eva Hughes, Sue McGuinness, John McHale, Alan Smith and Jonathan Wood.

APOLOGIES:

Apologies for absence were received from Councillors John Healy and Andy Pickering.

72 DECLARATIONS OF INTEREST, IF ANY.

No declarations were reported at the meeting.

73 MINUTES OF THE PLANNING COMMITTEE MEETING HELD ON 7TH MARCH, 2017

RESOLVED that the minutes of the meeting held on 7th March, 2017, be approved as a correct record and signed by the Chair subject to Councillor John McHale being shown as present at the meeting.

74 SCHEDULE OF APPLICATIONS

RESOLVED that upon the consideration of a Schedule of Planning and Other Applications received, together with the recommendations in respect thereof, the recommendations be approved in accordance with Schedule and marked Appendix 'A'.

75 APPEAL DECISIONS

RESOLVED that the following decision of the Secretary of State and/or his inspector, in respect of the under-mentioned Planning Appeal against the decision of the Council, be noted:-

Application No.	Application Description & Location	Appeal Decision
16/00308/M	Appeal against enforcement action for unauthorised material change of use from a site permitted for agricultural purposes to the siting of a static mobile home and 3	ENF-App Dis/Upheld Sub to Correction/Var 22/02/2017

	touring caravans used for residential purposes under grounds (b) and (g) at Field House Farm, Sticking Lance, Adwick-upon-Dearne, Mexborough	
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76 OUTSTANDING PLANNING APPEAL - MERE LANE, EDENTHORPE (EXCLUSION PARAGRAPH 5)

The Committee considered a report inviting Members to comment in respect of an appeal against refusal of outline planning permission for residential development with open space, landscaping and associated access at Mere Lane, Edenthorpe. The report outlined how the Council's case could be best presented at the forthcoming public inquiry.

Members recalled that outline planning application 15/01278/OUTM was refused by the Planning Committee in November last year. The reasons for refusal were as follows:-

1. being inappropriate development in the countryside which would create an isolated development disconnected from Edenthorpe;
2. being in an isolated location in relation to public transport and local services;
3. resulting in the loss of high quality agricultural land; and
4. having a detrimental impact on the local highway network

It was noted that the applicants had lodged an appeal against that decision. In parallel, they had also recently resubmitted the application which would be presented to Committee later in the summer. It was advised that the appeal would be heard by a public inquiry currently planned for late in the summer.

It was moved by Councillor John McHale and seconded by Councillor George Derx that the Head of Planning continue to make attempts to appoint a highway consultant to defend the fourth reason for refusal until the latest possible date. Should the attempt not be successful, the decision not to defend the fourth reason for refusal be delegated to the Head of Planning in consultation with the Chair and Vice-Chair of the Committee.

On being put to the vote, the Motion was declared as follows:-

For: 9
 Against: 0
 Abst: 0

RESOLVED that the Head of Planning continue to make attempts to appoint a highway consultant to defend the fourth reason for refusal until the latest possible date. Should the attempts not be successful, the decision not to defend the fourth reason for refusal be delegated to the Head of Planning in consultation with the Chair and Vice-Chair and the applicants, and Planning Inspectorate be advised accordingly.

77 ENFORCEMENT CASES RECEIVED AND CLOSED FOR THE PERIOD OF 22 FEBRUARY TO 22 MARCH, 2017 (EXCLUSION PARAGRAPH 6)

The Committee considered a report which detailed all Planning Enforcement complaints and cases received, and closed during the period 22nd February to 22nd March, 2017.

In response to a Member query regarding application no 17/00082/M within the report, the Head of Planning undertook to provide the Member with an update on the specific details following the meeting.

RESOLVED that all Planning Enforcement Cases received and closed for the period 22nd February to 22nd March, 2017, be noted.

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 4th April, 2017

Application	1
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Application Number:	17/00176/3FULM	Application Expiry Date:	25th April, 2017
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Application Type:	Planning FULL (DMBC Reg 3) Major
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Proposal Description:	Erection of 5 no. restaurant/public house units (Use Classes A3/A4) and 3 no. standalone drive-thru restaurant facilities (Use Classes A3/A5), including associated access, parking, associated infrastructure and landscaping (Being application under Regulation 3 Town and Country Planning (General) Regulations 1992).
At:	Doncaster Leisure Park, Bawtry Road, Doncaster, DN4 7PD

For:	Doncaster MBC
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Third Party Reps:	None	Parish:	
		Ward:	Town

A proposal was made to grant the application.

Proposed by: **Councillor John McHale**

Seconded by: **Councillor Susan Durant**

For: 8 Against: 0 Abstain: 0

Decision: Planning permission granted subject to the replacement of conditions 2, 3, 4, 5, 7, 8, 9, 12, 13, 17, 19, 20, 21, 27 and 30 to read as follows, the deletion of condition 28 and the addition of the following condition:-

02. The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans listed below:

- 4142-PL-002A Proposed site plan Rev A**
- 4142-PL-003A Proposed Roof Plan Rev A**
- 4142-PL-004 Proposed Elevations Street Scene Views**

4142-PL-005 Proposed Terrace Ground Floor Units 1-5
4142-PL-006 Proposed Terrace Elevations Units1-5
4142-PL-007 Unit Ground Floor Plan
4142-PL-008 Unit 6 Proposed Elevations
4142-PL-009 Unit 7 Ground Floor Plan
4142-PL-010 Proposed Elevations Unit 7 Elevations
4142-PL-011 Unit 8 Ground Floor Plan
4142-PL-012 Unit 8 Proposed Elevations
4142-PL-014 Proposed 3D Aerials
4142-PL-014 Proposed Views 3D Images
4142-PL-017 Proposed Phasing Plan
SF 2624 LL01 Landscape Sections Rev-16020_DR0001-B Drainage
Strategy Layout Rev B
SF 2624 LL01 Rev E
SF 2624 LL05
170204 Herten Triangle Doncaster CO2
Reduction Report
HL1135-LTG PLOT External Lighting Plot Rev B
REASON
To ensure that the development is carried out in accordance with
the application as approved.

03. Before the construction of each building, details of the proposed external building materials for that phase (as shown on the Proposed Phasing Plan 4142-PL-017 (or such phasing plan as is otherwise agreed in writing by the Local Planning Authority), shall be submitted to and approved by the Local Planning Authority. Details submitted for the first phase should include an architectural lighting strategy including proposed fixtures for buildings within that phase of the development. The development shall then be carried out in accordance with the approved materials and lighting details.
REASON
To ensure the satisfactory appearance of the development.
04. Before the development commences of any phase of the development as shown on the Proposed Phasing Plan 4142-PL-017 (or such phasing plan as is otherwise agreed in writing by the Local Planning Authority), full details of the proposed external works hard landscape and surfacing material palette, public art, street furniture and boundary treatments relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved materials and details.
REASON
To ensure the satisfactory appearance of the development.

- 05. Before the development commences, a statement shall be submitted for approval explaining what sustainability measures will be incorporated to aim to achieve a level of sustainability equivalent to BREEAM very good. Unless otherwise agreed, the development must take place in accordance with the approved statement. Prior to the occupation of any building, a post construction review should be carried out and evidence of the implemented measures submitted. This will enable the planning condition to be fully discharged.**
REASON
In the interests of sustainability and to minimise the impact of the development on the effects of climate change.
- 07. Before any phase of the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the Local Planning Authority.**
REASON
To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.
- 08. Before a phase of the development hereby permitted is brought into use, the parking as shown on the approved plans shall be provided. The parking area shall not be used otherwise than for parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.**
REASON
To ensure that adequate parking provision is retained on site.
- 09. Construction of a phase of the development as shown on the Proposed Phasing Plan 4142-PL-017 (or such phasing plan as is otherwise agreed in writing by the Local Planning Authority), hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and/or visitors to that phase of the development have been submitted to and approved in writing by the local planning authority. These facilities shall be fully implemented and made available for use prior to the occupation of the phase of development hereby permitted and shall thereafter be retained for use at all times.**
REASON
To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with polity CS9 of the Doncaster Core Strategy.

12. **Unless otherwise agreed in writing, no development shall commence until details of offsite highway works to include an informal pedestrian crossing facility on Herten Way (North) has been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the agreed details.**
REASON
In the interests of highway and pedestrian safety.
13. **Detailed layout, engineering and drainage details for the proposed access arrangements within the site shall be submitted for inspection and approval by the Local highway authority before construction works commence on site. The development shall be carried out in accordance with the approved details. There shall be no occupation of any building until such access works are open to traffic.**
REASON
In the interests of highway safety.
17. **Unless as shall be specifically approved otherwise in writing by the Local Planning Authority, the scheme of landscaping detailed or the Landscape Proposals Softworks Plan (Ref: SF2624/LL01/Revision E) and Landscape Sections Plan (Ref: SF2624/LL05) shall be implemented in full accordance with the approved details and the Proposed Phasing Plan 4142-PL-017 (or such phasing plan as is otherwise approved in writing by the Local Planning Authority) during the first available planting season following the completion of the phase of development hereby granted and the local planning authority notified in writing within 7 working days of the completion of the landscape works for that phase to inspect and approve practical completion in writing. Any part of the scheme which fails to achieve independence in the landscape or is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme, unless the local planning authority gives its written approval to any variation.**
REASON
In the interests of environmental quality and core strategy policy CS16: Valuing or Natural Environment.
19. **Prior to the occupation of any building comprised in the development, details of an extraction/ventilation system to control the emission of cooking smells and fumes from that unit so as to prevent any odour dis-amenity to nearby residents shall be submitted for that unit to and approved by the local planning authority in writing. The approved scheme shall be installed and be fully operational when the use commences. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions. The system shall be so designed as to ensure that noise rating level, measured and calculated in accordance with BS4142: 2014, when measured at the boundary of any noise sensitive property, to exceed the measured background level at that location.**

REASON

To safeguard the amenities of the occupiers of adjacent properties.

20. Each building or unit within a building within the development shall include sufficient provision for the storage of all waste (including provision for storing separate waste for recycling) that will be produced prior to its collection and disposal, and suitable means by which to place all waste receptacles for collection.

REASON

In the interests of the amenity of the locality.

21. The risk of ground gas migration shall be fully investigated prior to the commencement of development on site.
- (a) The site investigation, including relevant ground gas monitoring shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice.
 - (b) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy, including a diagram of the installation and installation method statement shall be submitted in writing and approved by the LPA prior to any remediation commencing on site.
 - (c) The approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance.
 - (d) Upon completion of the works, this condition shall not be discharged until a verification report has been submitted to and approved by the LPA. The verification report shall include quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. The site shall not be brought into use until such time as all verification data has been approved by the LPA

LPA

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to pursuant to the National Planning Policy Framework.

27. **No building or unit within a building hereby permitted shall be occupied until surface water drainage works have been completed for the implemented phase of the development as shown on Proposed Phasing Plan 4142-PL-017 (or such phasing plan as is otherwise agreed in writing by the Local Planning Authority), in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.**
REASON
To comply with current planning legislation – National Planning Policy Framework.
30. **A Service Delivery Management Plan (SDMP) shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use. The agreed SDMP shall thereafter be adhered to unless otherwise agreed by the Local Planning Authority.**
REASON
In the interests of highway safety.
31. **Notwithstanding the provisions of Town and Country Planning Use Classes (Amendment) Order 2005 (or any subsequent order or statutory provision revoking or re-enacting that order with or without modification), there shall be no change of use of any of the units to A1 or A2, unless otherwise agreed in writing by the Local Planning Authority.**
REASON
The local planning authority wishes to retain control over any subsequent change of use of these premises, in the interests of safeguarding the amenities of the area.
32. **Only one unit within the development at any time shall be permitted for a use within Class A4 of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and/or re-enacting that Order with or without modification.**
REASON
In the interests of safeguarding the amenities of the area.

Application	2
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Application Number:	16/02517/FUL	Application Expiry Date:	Extended until 14th May, 2017
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Application Type:	Full application
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Proposal Description:	Proposed erection of 5 apartments including dedicated parking following demolition of existing detached dwelling
At:	141A Bawtry Road, Bessacarr, DN4 7AH

For:	Mr Vishwas Kayarkar
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Third Party Reps:	5 objections	Parish:	
		Ward:	Bessacarr

A proposal was made to grant the application.

Proposed by: **Councillor John McHale**

Seconded by: **Councillor Iris Beech**

For: 7 Against: 0 Abstain: 2

Decision: Planning permission granted

(A consultation response from the South Yorkshire Architectural Liaison Officer was reported at the meeting).

Application	3
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Application Number:	16/02762/FUL	Application Expiry Date:	20th January, 2017
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Application Type:	Full Application
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Proposal Description:	Variation of condition 2 of granted application 16/02144/FUL (Retrospective application for the change of use from Retail (Class 1) to Café (Class A3) – Change opening hours condition to Monday to Friday 0700 to 1500, Saturdays 0800 to 1500 and Sundays 0900 to 1500)
At:	53 High Road, Warmsworth, Doncaster DN4 9LX

For:	Miss D Hall
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Third Party Reps:	14 objections 6 support	Parish:	Warmsworth Parish Council
		Ward:	Edlington and Warmsworth

A proposal was made to refuse the application.

Proposed by: **Councillor Eva Hughes**

Seconded by: **Councillor George Derx**

For: 9 Against: 0 Abstain: 0

Decision: Planning permission refused for the following reason:-

- 01. In the opinion of the Local Planning Authority, the proposed Sunday opening hours would have a detrimental impact upon the residential amenity of neighbouring occupiers, due to the additional vehicular movements and parking of vehicles at the café and close to the junction of Beech Grove and the A630. The proposal is therefore contrary to saved policy PH12 of the Doncaster Unitary Development Plan, Doncaster Core Strategy Policy CS14 and the National Planning Policy Framework.**

In accordance with Planning Guidance ‘Having Your Say at Planning Committee’, Councillor Phil Cole, Ward Member spoke in opposition to the application for the duration of up to 5 minutes.

Application	4
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Application Number:	1700078/FUL	Application Expiry Date:	10th March, 2017
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Application Type:	Full Application
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Proposal Description:	Erection of a detached dwelling with associated garaging
At:	Land at High Street, Braithwell, Rotherham

For:	Mr Wadsley
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Third Party Reps:	24	Parish:	Braithwell/Micklebring Parish Council
		Ward:	Tickhill and Wadworth

A proposal was made to grant the application.

Proposed by: **Councillor Iris Beech**

Seconded by: **Councillor Susan Durant**

For: 5 Against: 1 Abstain: 1

Decision: Planning permission granted

In accordance with Planning Guidance 'Have Your Say at Planning Committee', Mr Wadsley (applicant) spoke in support of the application for the duration of up to 5 minutes.

Application	5
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Application Number:	17/00422/FUL	Application Expiry Date:	17th April, 2017
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Application Type:	Full application
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Proposal Description:	Proposed part change of use of ground floor office (B1) to personal fitness studio (D2)
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At:	Block A, Loversall Court, Clayfields, Tickhill Road
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For:	Mr John Sedgwick, C/O Diane Holgate – DCH Consulting
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Third Party Reps:	1 objection	Parish:	N/A
		Ward:	Balby South

A proposal was made to grant the application.

Proposed by: **Councillor Eva Hughes**

Seconded by: **Councillor Sue McGuinness**

For: 8 Against: 0 Abstain: 0

Decision: Planning permission granted.

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DONCASTER METROPOLITAN BOROUGH COUNCIL

25th April 2017

To the Chair and Members of the

PLANNING COMMITTEE

PLANNING APPLICATIONS PROCESSING SYSTEM

Purpose of the Report

1. A schedule of planning applications for consideration by Members is attached.
2. Each application comprises an individual report and recommendation to assist the determination process.

Human Rights Implications

Member should take account of and protect the rights of individuals affected when making decisions on planning applications. In general Members should consider:-

1. Whether the activity for which consent is sought interferes with any Convention rights.
2. Whether the interference pursues a legitimate aim, such as economic well being or the rights of others to enjoy their property.
3. Whether restriction on one is proportionate to the benefit of the other.

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Scott Cardwell
Assistant Director of Development
Directorate of Regeneration and Environment

Contact Officers: Mr R Sykes (Tel: 734555)

Background Papers: Planning Application reports refer to relevant background papers

Summary List of Planning Committee Applications

NOTE:- Site Visited applications are marked 'SV' and Major Proposals are marked 'M'

Application	Application No	Ward	Parish
1.	16/03152/FUL	Finningley	
2.	17/00557/FUL	Armthorpe	Armthorpe Parish Council

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE - 25th April 2017

Application	1
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Application Number:	16/03152/FUL	Application Expiry Date:	10th February 2017
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Application Type:	Full Application
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Proposal Description:	Installation of 2.25m high fence alongside front boundary (Retrospective) (being resubmission of planning application 15/02727/FUL refused on 08/01/2106)
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At:	220 Cantley Lane, Cantley, Doncaster, DN4 6QT
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For:	Mr Robert Dakin
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Third Party Reps:	0	Parish:	
		Ward:	Finningley

Author of Report	Elizabeth Maw
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MAIN RECOMMENDATION:	REFUSE
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1.0 Reason for Report

1.1 The application is being presented to committee at the request of local ward member Cllr Richard Allan Jones.

2.0 Proposal and Background

2.1 The proposal is a retrospective application to install a 2.25m high fence on the front boundary of a residential property. The fence is alongside Cantley Lane.

2.2 The fence was refused planning consent in January 2016 because the height and colour of the fence has a negative impact on the character of Cantley Lane. The owner has let the fence weather for 1 year, painted the concrete posts green and resubmitted the application. Officers consider the fence to remain unacceptable because although the colour has improved the height remains unacceptable.

2.3 The only material planning consideration is the appearance of the fence.

3.0 Relevant Planning History

3.1 Planning history relevant to the consideration of the application includes:

3.2 15/02727/FUL: Installation of 2.25m high fence alongside front boundary (retrospective). Refused on 08.01.2016 for the following reason:

In the opinion of the Local Planning Authority, the height and colour of the fence has a negative impact on the character of Cantley Lane. It would be contrary to paragraph 64 of the NPPF and local policy CS14, which advise, development that does not improve the character of an area and integrates with its surroundings should be refused.

4.0 Representations

4.1 The application has been publicised by sending letters to nearby neighbours and placing a site notice near to the application site. No observations received.

5.0 Relevant Consultations

5.1 No consultations were necessary.

6.0 Relevant Policy and Strategic Context

National Planning Policy Framework

Doncaster Core Strategy Policy CS14 (Design and Sustainable Construction)

7.0 Planning Issues and Discussion

7.1 The fence subject of this application is a timber panel fence with concrete posts, 2.25m in height. It forms the front boundary of a residential property and it stands alongside Cantley Lane.

7.2 The character of the immediate surroundings is a leafy, green area due to numerous hedgerows, shrubbery, grassed verges and a plantation on the opposite side of the road. Most front residential boundaries are low fencing or hedges, which makes the greenery the dominant feature of the lane. There is a fence next to this site and alongside Cantley Lane, which is lower than the fence proposed.

7.3 In 2016, the Local Planning Authority refused planning consent for the fence because its colour and height has a negative impact on the character of Cantley Lane.

7.4 Since the previous refusal the fence has weathered and the concrete posts have been painted green, which has improved its appearance. However, the height remains unacceptable. The height of the fence is uncharacteristically high and visually prominent on the lane. The view of officer's is that the height of the fence has a negative impact on the character of Cantley Lane.

7.5 The owner has put a supporting case together. He advises conifers were the original front boundary but they were dangerous in high winds. The owners have also experienced two frightening incidents of objects being thrown at their windows and as a result they wanted to replace the conifers with a high fence. They have also been granted a license to plant on the council verge to the front which will help the fence blend into the green character of Cantley Lane.

7.6 Whilst the owners supporting case has been acknowledged, the owners could have set the fence back from their boundary and added planting in front of the fence, which would have had similar security benefits but lessened the visual impact of the fence. Landscaping the council verge at the front of the fence will help the fence blend in but the land is in Council ownership therefore the applicant would be using DMBC land to benefit his application and as such the Planning Authority could not impose a condition for long term planting on this strip of land.

8.0 Summary and Conclusion

8.1 The view of officers is that the height of the fence has a detrimental impact to the character of Cantley Lane. The fence is contrary to local policies CS14 and ENV54, which advise, development that does not improve the character of an area and integrates with its surroundings should be refused.

9.0 Recommendation

REFUSE Full Planning Permission for the following reason.

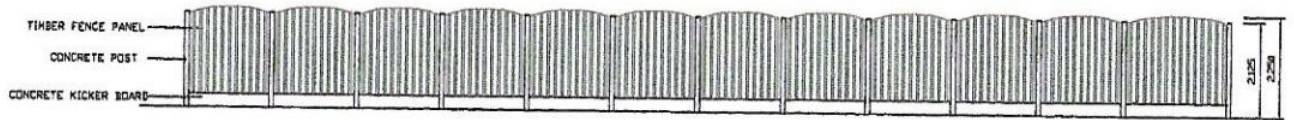
01. U51930 In the opinion of the Local Planning Authority, the height of the fence has a negative impact to the character of Cantley Lane. It would be contrary to paragraph 64 of the NPPF and local policy CS14, which advise, development that does not improve the character of an area and integrates with its surroundings should be refused.

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Appendix 1: Proposed Site Plan



Appendix 2: Proposed Design



DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE - 25th April 2017

Application 2

Application Number:	17/00557/FUL	Application Expiry Date:	2nd May 2017
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Application Type:	Full Application
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Proposal Description:	Erection of 1st floor extension to rear of property
At:	125 Beech Road, Armthorpe, Doncaster, DN3 2EF

For:	Miss Kerry Gravil
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Third Party Reps:	0	Parish:	Armthorpe Parish Council
		Ward:	Armthorpe

Author of Report	Bethan Gledhill
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MAIN RECOMMENDATION:	GRANT
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1.0 Reason for Report

1.1 The application is being presented to the Planning Committee as the applicant is a member of staff within the Regeneration and Environment Directorate.

2.0 Proposal and Background

2.1 The application seeks permission for the erection of a first floor extension to the rear of the property.

2.2 The site is a two storey, end-terraced property located on Beech Road. It is finished in red brick and white render. There is an existing single storey rear extension, which has a pitched roof, and is finished in a red facing brick. The extension projects from the rear of the original property by 5m. The new extension will be sited above this existing extension. The rear garden is long and is enclosed by timber panelled fencing. Surrounding properties are similar in terms of age and design.

3.0 Relevant Planning History

3.1 06/00988/FUL - Erection of detached double garage with studio above at rear of terraced house - Application Granted

3.2 11/00176/FUL - Erection of a detached double garage with studio above at rear of a terraced house - Application Granted

4.0 Representations

4.1 None received.

5.0 Parish Council

5.1 No comments have been received.

6.0 Relevant Consultations

Internal Drainage Board - No comments received.
Doncaster East Internal Drainage Board - Informatives
Severn Trent Water - No comments received
Pollution Control - No comments

7.0 Relevant Policy and Strategic Context

Doncaster Unitary Development Plan (1998)
Policy ENV54 - Extension and Alterations to Existing Buildings

Doncaster Core Strategy (2012)
Policy CS14 - Design and Sustainable Construction

Supplementary Planning Guidance - Design Requirements and Guidance

8.0 Planning Issues and Discussion

8.1 The main issues for members to consider is the potential impact of the development on the character of the surrounding area and whether the proposal would detrimentally affect neighbouring residential properties.

Residential Amenity

8.2 The application seeks permission for a first floor extension above an existing single storey projection to the rear.

8.3 Doncaster's SPD states that rear extensions are usually partially hidden from the streetscene and therefore can have less of an impact, but can still affect the character of rear gardens. However, they should still be appropriately designed so as to be in keeping with the character of the original dwelling and the surrounding area. They should not overlook, over-dominate, or overshadow the adjoining property, and must leave adequate usable private garden space. Where possible, the distance from the extension to the front or rear of the nearest neighbouring dwelling should be 21m.

8.4 It is not considered that there would be harm caused in terms of overlooking. There are to be two windows installed on the south-western elevation, however, both are to be obscurely glazed thus mitigating the potential for direct overlooking. The windows to the rear elevation would not result in overlooking given that the distance to the neighbouring property to the rear is well in excess of 21m, which complies with the advice contained within the SPD.

8.5 Doncaster's SPD goes on to state that individual two storey extensions which project more than 3m would have to be set in from the boundary by 1.0m for each metre in excess of 3m. Two storey extensions will be looked at more stringently in terms of overlooking, over dominance, and over shadowing. The extension is to be set in from the boundary with the adjoining neighbour by 0.7m.

8.6 The extension is to project by 4.3m from the rear of the property. The Design Requirements and Guidance SPG does state that such extensions should project by 3m only from the rear of the host property. However, it should be noted that the adjoining property already projects by 1m further than the host property. As such, the proposed extension would project by 3.3m from the rear elevation of the adjoining property, and this can be seen within the annex attached to the report. Therefore, the impact upon this property would be mitigated. Whilst the extension would encroach into the 45 degree zone of influence, it is considered that this would be to a minimal degree and would not warrant the refusal of planning permission in relation overshadowing. The adjoining property has a single storey rear extension, and therefore the ground floor windows would not be impacted upon.

Visual Amenity

8.7 The principle elevation will would remain unchanged should members resolve to grant planning permission, with the majority of the development taking place to the rear of the property. Views of the extension would be limited to the immediate neighbours. As a result it is considered that the proposal would have a limited impact on the character of the area.

8.8 The extension is to be finished in brick and concrete tile and would therefore be sympathetic to the existing rear extension. The neighbouring property at 127 has a two storey rear extension, and thus, the proposed extension at no 125 would not appear out of character.

9.0 Summary and Conclusion

9.1 In summary, having balanced all of the material planning considerations, it is considered that the proposal is acceptable as there would be no harm caused to visual or residential amenity. It is considered that the proposal complies with the aforementioned planning policies. It is recommended that planning permission be granted subject to the following conditions.

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

RECOMMENDATION

Planning Permission GRANTED subject to the following conditions.

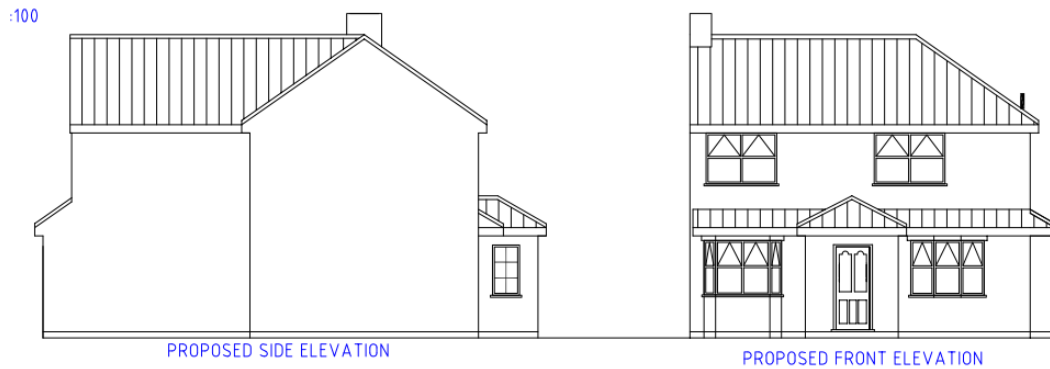
- | | |
|-----------|--|
| 01. STAT1 | The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
REASON
Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990. |
| 02. ACC1 | The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans and specifications.
REASON
To ensure that the development is carried out in accordance with the application as approved. |
| 03. MAT2 | The external materials and finishes shall match the existing property.
REASON
To ensure the satisfactory appearance of the development in accordance with policy ENV54 of the Doncaster Unitary Development Plan. |

01. U11190 The application may increase the impermeable area and the applicant should ensure that for any proposed increase in surface water run-off to the site, the existing or proposed surface water discharge systems has sufficient capacity.
02. IQ171 **INFORMATIVE**
The developer shall consider incorporating all possible sustainability features into the design of the proposed development.

Appendix 1: Proposed Site Plan



Appendix 2: Existing and Proposed Plans



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To the Chair and Members of the Planning Committee

Delegated Authorities from Planning Committee to the Assistant Director of Development

EXECUTIVE SUMMARY

1. Periodically there is a need to review the delegated authorities given by the Planning Committee to the Assistant Director of Development to enable the efficient operation of the planning service. This report sets out some amendments to the current delegated authorities to build in greater effectiveness and efficiency within the service and brings the scheme up to date following previous organisational restructures. The report recommends amendments that are urgently needed to the service.

RECOMMENDATIONS

That the changes to the delegation agreement set out in paragraphs 4, 6 and 7 below, be agreed.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

2. The decisions deriving from this report will provide a more efficient planning service while maintaining transparency of decision making.

BACKGROUND

3. The first amendment seeks to avoid a situation where applications submitted by a planning agent whose spouse works within the same directorate but not in a position to have any influence over planning applications, do not automatically need to be determined by the Planning Committee. Within the current delegation agreement (attached as Appendix A) any applications submitted by this agent would be caught by clause 4 of the delegation agreement that reads,

The application is submitted by, or on behalf of a Councillor of the authority (or their spouse/partner) or by any staff member of the Development Directorate (or their spouse/partner).

As a result all applications submitted by the spouse of the staff member must be determined by Planning Committee.

4. It is proposed that this clause be amended to –

The application is submitted by, or on behalf of a Councillor of the authority (or their spouse/partner or a member of their household) or by any DMBC staff member (or their spouse/partner or a member of their household) whose job involves providing advice, processing, assessing or determining planning applications.

5. The second area for amendment relates to the 5th clause of the current delegation agreement that reads –

The application is subject to an objection by a staff member of the Development Directorate or a member of their household.

6. The obsolete term of Development Directorate should be removed and replaced in a similar way as in paragraph 4 above. It would thus read –

The application is subject to an objection by any DMBC staff member (or their spouse/partner or a member of their household) whose job involves providing advice, processing, assessing or determining planning applications.

7. The Committee is asked to consider an additional delegated authority applicable in relation to pending planning appeals. The proposed authority would read-

Delegate to the Assistant Director of Development the conduct of planning appeals including the withdrawal of a reason for refusal where:

- (i) The reason for refusal is one of several reasons for refusal and the appeal will still proceed on other reasons, and
- (ii) On receipt of written advice from Counsel that the reason for refusal is unsustainable and cannot be supported on appeal, and
- (iii) Subject to agreement with Planning Committee Chair and Vice Chair.

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

8. Not to amend the scheme of delegation as set out in paragraph 4 above could lead to claims of giving some planning agents an unnecessary commercial advantage over others.
9. Not to amend the scheme of delegation as set out in paragraph 6 above would retain an obsolete directorate name and retain the current difficulties of awareness of directorate staff and staff expectations.

10. Not to amend the scheme of delegation as set out in paragraph 7 above would retain the need to await for a committee cycle to move matters forward often when time constraints set by the Planning Inspectorate are very tight and may not be able to be adhered to leaving the council exposed to the risk of a costs award against it.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

11. The following table summarises the key priorities in the Corporate Plan for 2014-17 and the priorities of the Elected Mayor.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	No implications
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	No implications
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	No implications
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	No implications
	<p>Council services are modern and value for money.</p>	The recommendations of this report will help towards creating a modern value for money efficient service.
	<p>Working with our partners we will provide strong leadership and governance.</p>	No implications

RISKS & ASSUMPTIONS

12. There may be further situations that these authorities do not envisage, but these will need to be dealt with as they arise in the most appropriate and transparent way.

LEGAL IMPLICATIONS

13. Within the Council's Constitution the determination of planning applications lies with the Planning Committee, the Chief Executive, the Director of Development or the Assistant Director of Development. The delegation agreement therefore specifies those instances where the Planning Committee considers it appropriate that they should be the decision makers on particular applications. The agreement provides transparency as to which applications are appropriate to be determined by the committee and aids good governance.

The other amendments within the agreement provide clarity in relation to the determination of specific applications and for the conduct of planning appeals where in some instances it is not possible to move matters forward including at the inquiry or hearing itself.

FINANCIAL IMPLICATIONS

14. There are no financial implications.

HUMAN RESOURCE IMPLICATIONS

15. There are no Human Resources implications.

TECHNOLOGY IMPLICATIONS

16. There are no identified technology implications.

EQUALITY IMPLICATIONS

17. There are no identified equality implications.

CONSULTATION

18. None

BACKGROUND PAPERS

19. Delegation Agreement as Copied at Appendix 1.

REPORT AUTHOR & CONTRIBUTORS

20. Richard Purcell – Head of Planning
Karen Winnard – Head of Regulatory Services

Peter Dale
Director of Regeneration and Environment

Delegation Agreement

All applications for Certificate of Lawful Use or Lawful Development will be determined by the Head of Service or his/her designated Officers under delegated powers and will not be referred to planning committee.

All other planning applications (and associated applications, consents and authority including those relating to listed buildings, conservation area consents, enforcement actions and prosecutions) are considered to fall within the delegation scheme and will be determined by the Head of Service or his/her designated officers unless;

1. Any Member of the Council requests in writing within 21 days of the circulation of details of the application, that the application should be the subject of consideration by the Planning Committee.
2. The application would be contrary to the provisions of the adopted Development Plan including the Council's own Supplementary Planning Guidance and Supplementary Planning Documents, or any other relevant guidance.
3. In the opinion of the Head of Service or those with such designated authority, the application:-
 - Is potentially controversial
 - Is likely to be of significant public interest
 - Would have a significant impact on the environment
 - Is subject to significant material objections that have not been addressed, resolved or mitigated to his satisfaction following consultation with the Chair or Vice Chair.
4. The application is submitted by, or on behalf of a Councillor of the authority (or their spouse/partner) or by any staff member of the Development Directorate (or their spouse/partner).
5. The application is subject to an objection by a staff member of the Development Directorate or a member of their household.
6. The application is submitted by or on behalf of the Council for its own development, except for the approval of routine minor developments.

All determinations of applications and other related matters by way of delegated powers are subject to the following limitation:

No planning application or other related matter shall be determined under delegated powers prior to the completion of all necessary statutory publicity and consultation.

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25th April, 2017

To the Chair and Members of the Planning Committee

APPEAL DECISIONS

EXECUTIVE SUMMARY

1. The purpose of this report is to inform members of appeal decisions received from the planning inspectorate. Copies of the relevant decision letters are attached for information.

RECOMMENDATIONS

2. That the report together with the appeal decisions be noted.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. It demonstrates the ability applicants have to appeal against decisions of the Local Planning Authority and how those appeals have been assessed by the planning inspectorate.

BACKGROUND

4. Each decision has arisen from appeals made to the Planning Inspectorate.

OPTIONS CONSIDERED

5. It is helpful for the Planning Committee to be made aware of decisions made on appeals lodged against its decisions.

REASONS FOR RECOMMENDED OPTION

6. To make the public aware of these decisions.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

7.

	Outcomes	Implications
	Working with our partners we will provide strong leadership and governance.	Demonstrating good governance.

RISKS AND ASSUMPTIONS

8. N/A

LEGAL IMPLICATIONS

9. Sections 288 and 289 of the Town and Country Planning Act 1990, provides that a decision of the Secretary of State or his Inspector may be challenged in the High Court. Broadly, a decision can only be challenged on one or more of the following grounds:
- a) a material breach of the Inquiries Procedure Rules;
 - b) a breach of principles of natural justice;
 - c) the Secretary of State or his Inspector in coming to his decision took into account matters which were irrelevant to that decision;
 - d) the Secretary of State or his Inspector in coming to his decision failed to take into account matters relevant to that decision;
 - e) the Secretary of State or his Inspector acted perversely in that no reasonable person in their position properly directing themselves on the relevant material, could have reached the conclusion he did;
a material error of law.

FINANCIAL IMPLICATIONS

10. The Director of Financial Services has advised that there are no financial implications arising from the above decision.

HUMAN RESOURCES IMPLICATIONS

11. There are no Human Resource implications arising from the report.

TECHNOLOGY IMPLICATIONS

12. There are no Technology implications arising from the report

EQUALITY IMPLICATIONS

13. There are no Equalities implications arising from the report.

CONSULTATION

14. N/A

BACKGROUND PAPERS

15. N/A

CONCLUSIONS

16. Decisions on the under-mentioned applications have been notified as follows:-

Application No.	Application Description & Location	Appeal Decision	Ward
16/01974/OUT	Outline application for the erection of one dwelling including details of access and landscaping at Land Adjacent Acre Paddock, Brockholes Lane, Branton, Doncaster	Appeal Allowed 07/04/2017	Finningley
14/02421/FUL	Erection of ground floor infill extension to side including alterations to form new shop front (being re-submission of application 13/02145/FUL withdrawn on 22/11/2013) at Bentley Food And Wine, 163 Bentley Road, Bentley, Doncaster	Appeal Allowed 29/03/2017	Bentley

REPORT AUTHOR & CONTRIBUTORS

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TSI Officer
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PETER DALE
Director of Regeneration and Environment

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Appeal Decision

Site visit made on 14 March 2017

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 April 2017

Appeal Ref: APP/F4410/W/16/3166003

Adjacent to 'Acre Paddock', Brockholes Lane, Branton, Doncaster DN3 3NH

- 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 Mrs J M Gibbins against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 16/01974/OUT, dated 1 August 2016, was refused by notice dated 20 October 2016.
 - The development proposed is erection of one dwelling including means of access and landscaping.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of one dwelling including means of access and landscaping in accordance with the terms of application Ref: 16/01974/OUT, dated 1 August 2016, and subject to the conditions set out in the schedule attached to this decision letter.

Procedural Matter

2. Outline planning permission was sought for the proposed development in the original application which included details of the means of access and landscaping. Accordingly, I have assessed the appeal proposal on that basis.

Main Issue

3. The main issue is whether the proposed development would be inappropriate development in the countryside, having regard to its location beyond the defined settlement boundary and its effect upon the character and appearance of the area.

Reasons

4. The appeal site is an area of land located at the end of a continuous linear pattern of development along Brockholes Lane. It is bounded by hedges and trees which have some gaps apparent along all boundaries. To the south lies the Yorkshire Wildlife Park and to the north and east are residential properties including the recent Badger's Holt housing development on the opposite side of Brockholes Lane. The property adjacent to the appeal site, known as 'Acre Paddock' is a single storey property on a spacious plot which is characteristic of the properties along the south eastern side of Brockholes Lane. The wider locality is characterised as an edge of settlement, semi-rural area with

- relatively large, mostly single storey properties on generously sized plots which are accessed from Brockholes Lane.
5. Policy CS2 of the Doncaster Core Strategy (CS) sets out the development strategy for the area which focuses development on the principal towns. Whilst some development is acceptable in larger villages such as Branton, the Council seeks to conserve and enhance defined villages and only quality infill housing will be permitted. Policy CS3 states how the countryside will be protected and enhanced through a Countryside Protection Policy Area (CPPA) and sets out the principles against which development is to be assessed to achieve this. These include development not being visually detrimental in terms of siting, design and materials and not creating highway issues or adversely affecting the living conditions of neighbouring and future occupiers. Furthermore, the policy states that development should preserve the openness of the CPPA and not conflict with the purposes of included land within it.
 6. Policies ENV2 and ENV4 of the Doncaster Unitary Development Plan (UDP) set out the countryside policy area designations and are the general development control policies relating to the countryside. Policy ENV4 sets out the key criteria for development in the countryside to be considered acceptable in principle.
 7. The appeal site lies outside of the defined settlement boundary and the proposal is therefore development in the countryside. Furthermore, the proposal is not infill development and I note that this is accepted by the appellant. Although outside the settlement boundary, in this particular case, the proposal would be adjacent to residential development, on a self-contained plot which has well-defined boundaries. From the evidence before me, I find that it would be in keeping with the character and appearance of the area in terms of the pattern of development and with regard to nearby properties in terms of the scale and position of the dwelling on the plot and its plot ratio.
 8. Due to the well-defined boundaries of the site and its relationship to the surrounding development, in my view, the site appears to be more a part of the settlement rather than an area of open countryside. Moreover, I note that the extent of the recent development at Badger's Holt to the northwest of Brockholes Lane has altered the character and appearance of the area, diminishes the impact of the proposal on the openness of the countryside and limits the harm in that regard. As a result, I find that the proposal would have no material adverse effect on the openness of the CPPA and would therefore preserve it.
 9. From what I have seen and read, I find that the proposal would have no significant impact on the openness of the CPPA. It would form a logical and reasonable development which would be in keeping with the character and appearance of its context. It would not erode the countryside or its openness and would provide a dwelling in a reasonably accessible and sustainable location close to local services and facilities in Branton. I acknowledge that the Council believes that allowing this appeal would encourage further development for housing in similar edge of settlement locations. However, each proposal, including the appeal scheme, must be considered on its own merits.
 10. I have been referred to several recent appeal decisions and planning applications by both parties in support of their respective cases. I have had due regard to these in determining this appeal. However, whilst I note that

there are some relevant elements and similarities to the appeal case provided within these cases, there are also many differences. Furthermore, I do not have the full details of these other cases before me. Notwithstanding this, I have considered the proposal before me on its own merits and within its own circumstances. Accordingly, whilst having had due consideration to these other cases, I have given only limited weight to them in determining this appeal.

11. The proposed development would be contrary to the approach to the location and supply of housing and the protection of the countryside set out in Policy CS2 of the CS and Policy ENV2 of the UDP. Therefore, it would not be in accordance with the development plan. In such circumstances, the National Planning Policy Framework (the Framework) indicates that planning permission should not be granted unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the proposal would be contrary to the development plan policies to which I have referred. However, I find that the other material considerations set out above would outweigh any resultant harm identified and provide a reasonable justification for the proposed development to be allowed.
12. Consequently, I conclude that the proposal would not be inappropriate development in the open countryside. Moreover, it has no significant detrimental effect on the openness of the CPPA or on the character or appearance of the local area and as a result, it would preserve its openness. Therefore, it would comply with Policy ENV4 of the UDP and Policy CS3 of the CS. Amongst other matters, these policies seek to strictly control development in the countryside and to ensure that development protects, preserves and enhances the openness of the CPPA.

Other Matters

13. I note concerns regarding the potential for overlooking and overshadowing of private gardens to the rear of properties on the Badger's Holt development to the north of the appeal site. Whilst I appreciate the importance of these concerns to those involved, the indicated position of the proposed dwelling on the submitted plans shows that it would be set back from Brockholes Lane to a similar distance to that of 'Acre Paddock' adjacent. As such, the proposal would be sufficiently distant from the properties and their gardens on the opposite side of Brockholes Lane to exceed the identified distance standards so as to not result in any significant adverse effect regarding overlooking or loss of privacy. Similarly, the distance of the proposed dwelling from the properties to the northwest of Brockholes Lane would not result in any substantive overshadowing. I note that the Council has reached a similar view on these matters and I see no reason to differ from that.
14. I have considered concerns regarding an increase in the potential for conflict between non-motorised users and motorised vehicles using Brockholes Lane. In my view, the one or two additional vehicles resulting from the proposal would have no substantive adverse impact on other road users in terms of safety or potential conflict. Furthermore, this is the view of the local highway authority and therefore, I am satisfied that there would be no material impacts in relation to these matters.

Conditions

15. I have had regard to the planning conditions that have been suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the suggested conditions to better reflect the relevant parts of the Planning Practice Guidance (PPG).
16. In addition to the standard implementation conditions (1, 2, 3 and 4), I have imposed conditions specifying the approved plans (5) in order to provide certainty and clarification regarding access and landscaping and in the interests of character and appearance. Conditions relating to the investigation, assessment and, if appropriate, remediation and verification regarding land contamination matters (6, 7 and 8) foul and surface water drainage (9) are necessary and reasonable in the interests of the living conditions for future occupiers. Furthermore, a condition relating to the provision of an ecological enhancement plan (10) is necessary and reasonable to ensure that the ecological interests of the site are maintained.
17. In addition, a condition ensuring the details of boundary treatments for the site (11) is required for reasons of character and appearance and conditions regarding the provision and quality of the areas of the site to be used by vehicles (12) and access to the site (13) are necessary and reasonable in the interests of public and highway safety. Finally, a condition relating to the implementation of a landscaping scheme (14) is reasonable and required in the interests of character and appearance.

Conclusion

18. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Andrew McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The details of the appearance, 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.
 - 3) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 4) Development relating to the reserved matters shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 5) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No: 2003/TP/001 – '*Location Plan - Proposed*', dated July 2016; Drawing No: 2003/TP/002 – '*Site Plan - Proposed*', dated July 2016; and the '*Landscaping Plan*' submitted with the planning application Ref: 16/01974/OUT and reproduced at Appendix 4 of the Council's Committee Report.
 - 6) No development hereby permitted shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- a) The Phase 1 desktop study shall propose further Phase 2 site investigation and risk assessment works, if appropriate and necessary, based on the relevant information discovered during the initial Phase 1 assessment.
 - b) The Phase 2 site investigation and risk assessment must be approved by the local planning authority prior to any investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and ground water sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors, shall be submitted to the local planning authority for approval.

- c) If, as a consequence of the Phase 2 site investigation, a Phase 3 remediation report is required, then this shall be approved by the local planning authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.
 - d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the works contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the local planning authority.
 - e) Upon completion of the Phase 3 work, a Phase 4 verification report shall be submitted to and approved by the local planning authority. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has met the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the local planning authority.
- 7) Should any unexpected significant contamination be encountered during development, all associated works shall cease and the local planning authority shall be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the local planning authority for approval. The associated works shall not re-commence until the reports have been approved by the local planning authority.
 - 8) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to, and approved in writing by, the local planning authority prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to, and approved in writing by, the local planning authority prior to any soil and soil forming material being brought onto site.
 - 9) The development hereby permitted shall not be begun until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to, and approved in writing by, the local planning authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the local planning authority prior to the occupation of the development.

- 10) On submission of the first reserved matters application, an ecological enhancement plan shall be submitted to, and approved in writing by, the local planning authority. This plan shall include details of the following measures, all of which shall be implemented prior to occupation of the site, or an alternative timescale to be approved in writing by the local planning authority:
 - i) The boundary hedge should be retained and enhanced through regular management by cutting and gapping up using native species appropriate for the site;
 - ii) Mature trees on the site should be retained and managed so as to enhance their value and wildlife;
 - iii) Further native broadleaf trees should be planted in appropriate areas of the site;
 - iv) The areas of grassland identified as species rich should be retained and a cutting/grazing regime established;
 - v) Areas of species rich grassland can be created through specific treatment of existing species poor grassland and sowing of new grasslands;
 - vi) The siting of three bot boxes and three bird boxes in mature trees within the site.
- 11) The development shall not be occupied until a plan has been submitted to, and approved in writing by, the local planning authority indicating the positions, design, materials, height and type of boundary treatment to be erected on site, including any gates. Unless otherwise approved in writing by the local planning authority, the details as approved shall be completed prior to the occupation of any building on site.
- 12) Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.
- 13) The development hereby permitted shall not be brought into use until a crossing over the footpath/verge has been constructed in accordance with a scheme previously approved in writing by the local planning authority.
- 14) The scheme of landscaping which has been approved as part of this proposal shall be begun during the first available planting season following the commencement of the development hereby granted. It shall thereafter be maintained by the site owner for a period of five years. Any tree or shrub planted in accordance with the scheme which becomes damaged or diseased, or dies or is removed within the five years shall be replaced during the next planting season. Any staking, tying, weeding, watering and other action deemed necessary by the local planning authority shall be carried out by the owner in accordance with the authority's publication 'Landscape Specification in Relation to Development Sites'.

END OF SCHEDULE

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Appeal Decision

Site visit made on 14 March 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th March 2017

Appeal Ref: APP/F4410/W/16/3166034

Bentley Food & Wine Store, 163 Bentley Road, Doncaster, South Yorkshire DN5 9TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K Duhre against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 14/02421/FUL, dated 3 October 2014, was refused by notice dated 5 December 2016.
 - The development proposed is a ground floor extension to side/rear of existing shop.
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Decision

1. The appeal is allowed and planning permission is granted for a ground floor extension to side/rear of existing shop at Bentley Food & Wine Store, 163 Bentley Road, Doncaster, South Yorkshire DN5 9TB in accordance with the terms of the application, Ref 14/02421/FUL, dated 3 October 2014, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 13-DUHRE-2; 13-DUHRE-3; 13-DUHRE-4.
 - 3) The development hereby permitted shall be carried out in accordance with the mitigation measures identified in the Flood Risk Assessment submitted with the application. Prior to the first use of the extension, the mitigation measures shall have been completed in accordance with the approved details. The mitigation measures shall be retained thereafter.
 - 4) Before any above ground development hereby permitted is commenced, details of works for the surface water drainage shall have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the first use of the extension. The surface water drainage scheme shall thereafter be managed and maintained in accordance with the approved details.
 - 5) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Procedural Matters

2. The land fronting, below and to the rear of the archway within the site forms part of public footpath No 25 Bentley with Arksey. The public footpath provides

a route linking Bentley Road (between property Nos 163 and 165) and Frank Road. The existence of the public footpath was established by an Order made under Section 53(2) (b) of the Wildlife and Countryside Act 1981 in 2015¹ which modified the Definitive Map and Statement, which is the legal record of public rights of way.

3. This appeal is made under Section 78 of the Town and Country Planning Act 1990 (TCPA 1990) and involves development which would affect the public right of way. However, grant of planning permission would not of itself authorise diversion of the existing public right of way. It has been brought to my attention that a separate application has been made to the Council to divert the public right of way under the powers of Section 257 of the TCPA 1990. The diversion of a public right of way under such powers is subject to a separate Order procedure, which falls beyond my jurisdiction when determining this appeal. The evidence before me indicates that the separate application to divert the public right of way has been subject to objection and, therefore, requires referral to the Secretary of State if planning permission is granted for the proposal before me. The Council refused the planning application subject to this appeal due to the effect on the public right of way and access if the development were to take place.

Main Issue

4. The main issue of the appeal is the effect on a public right of way and access between Bentley Road and Frank Road.

Reasons

5. The appeal site consists of a mid-terrace property facing Bentley Road (No 163) that is currently in use as a shop with residential accommodation at the rear of the building and at first floor level. The site also includes an existing archway at the side of the shop and below part of the first floor accommodation. The proposal seeks a single storey infill extension to the side of the existing property, including below and to the rear of the archway.
6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In refusing the application, the Council have not referred to any conflict with Policies CS1, CS14 and CS16 of the Doncaster Council Core Strategy 2011-2028 (CS), adopted May 2012, or Saved Policies ENV54, ENV55, ENV56, ENV57 and PH12 of the Doncaster Unitary Development Plan (UDP), adopted July 1998, which have been drawn to my attention as being relevant to the proposal. The CS and UDP policies do not relate specifically to public rights of way.
7. Paragraph 14 of the National Planning Policy Framework (the Framework) states, amongst other things, that where the development plan is absent, silent or relevant policies are out-of date, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Council have expressed concern with respect to the proposal's compliance with paragraph 75 of the Framework which seeks that

¹ Order Ref: FPS/F4410/7/32 – Decision date 13 July 2015.

- planning policies protect and enhance public rights of way and access, and that local planning authorities seek opportunities to provide better facilities for users.
8. At the time of my visit, the section of the public footpath running through the site was inaccessible from Bentley Road due to obstruction of the archway, including the siting of a steel container that was in use as a store room for the shop. Access from a byway also used by vehicles and cyclists, which runs along the rear boundaries of the terrace row to a bridge crossing Bentley Ings Dyke and adjoining Frank Road, was also restricted by the positioning of gates at the rear of the site. I observed that in those circumstances, alternative accessible routes are in well-established public use from Frank Road via the bridge leading along the byway at the rear of the site.
 9. The alternative routes follow existing desire lines from the bridge crossing Bentley Ings Dyke along the byway towards either end of the terrace row. To the south, the byway leads to commercial premises, a car park and the nearest bus stop serving the eastern side of Bentley Road. To the north, it leads toward a recreation ground and play area. The separate application to the Council under the powers of Section 257 of the TCPA 1990 identifies a diversion via the route towards the southern end of the terrace. Consequently, the development would not preclude public access between Bentley Road and Frank Road given that alternative routes are available via an unlit byway that already forms part of public footpath No 25.
 10. The byway is very lightly trafficked and consequently, any increased use by pedestrians along its length would not have a significant adverse effect on highway and pedestrian safety. The risk of accidents in terms of conflict between vehicles and pedestrians would be limited by the approximate 3m width of the byway, its alignment, surfacing and larger areas of car parking at either end of the terraces. Taken together these factors and the absence of lighting during periods of darkness, necessitate slow speeds for the infrequent vehicles travelling along the route, with refuge areas also available for pedestrians at reasonable intervals.
 11. The loss of the public footpath running through the site would inconvenience a limited number of pedestrians who would need to walk a slightly increased distance to access the shop subject to this appeal and the front entrances of surrounding properties. However, I observed that the absence of a central pedestrian link would be comparable to other similar terraced rows in the wider area where public access is only available around either end. Furthermore, most properties can be alternatively accessed directly from the byway via rear entrances.
 12. In any case, the limited adverse effect arising from inconvenience to pedestrians would be outweighed by the benefits of removing a secluded and unlit route through the site. Activity associated to the use of that section of the public footpath would have the potential to have an adverse effect on the living conditions of occupiers of residential accommodation at Nos 163 and 165 Bentley Road, particularly in terms of noise and disturbance during periods when a quieter living environment would be expected.
 13. I conclude that the development would not have a detrimental impact upon a public right of way and access between Bentley Road and Frank Road, given the alternative routes which are available and in use. The proposal would not

conflict with relevant policies of the CS and saved policies of the UDP, or paragraph 75 of the Framework in that respect.

Other Matters

14. The development consists of an infill extension and new shop front design which, subject to matching materials secured by condition, would complement the existing building and therefore, would not have an adverse effect on the character and appearance of the area. The limited depth of the extension, when compared with existing single storey outriggers to the rear of Nos. 163 and 165 would ensure no impact on the outlook or privacy of occupiers of neighbouring properties.
15. The extension would have moderate economic benefits to the local service provision of the shop, including its post office function, by providing additional sales area and a permanent storage area to replace an existing container. This could increase the range of goods capable of being sold. However, there is no substantiated evidence before me that this would result in a considerable increase in customers or deliveries so as to have a discernible effect on local parking arrangements or highway safety along Bentley Road.
16. Representations from interested parties have raised concerns in terms of fire risk implications of the proposal. However, I am satisfied that an extension compliant with Building Regulations would not have a detrimental effect upon fire safety. The development would not reduce the effectiveness of the fire service, as the rear elevations and yards of the terrace row would be capable of being accessed via front entrances and through existing properties.
17. There is no substantiated evidence that the obstruction of the section of the public footpath that runs through the site would cause a significant adverse effect in terms of litter or anti-social behaviour in the wider area.
18. Additional concerns were raised with respect to land ownership of the footpath which is a private matter between the relevant parties and not within my jurisdiction. Accordingly, issues relating to land ownership have not had any material bearing on my assessment of the planning merits of the proposal. The issue of the public consultation process has also been brought to my attention, due to the ownership interests of the appellant and his family relating to properties surrounding the site. However, I am satisfied that the Council approach of posting site notices would have ensured that interested parties were aware of the application and had the opportunity to make comments.
19. A consultation response from the Environment Agency indicates that the site lies in Flood Zone 3 which has a high probability of flooding. In this regard, the appellant has provided a Flood Risk Assessment (FRA) which includes appropriate mitigation measures to minimise the potential impact of flooding which can be secured by condition. An additional condition is also necessary to secure appropriate details of surface water drainage to prevent an increased risk of flooding to neighbouring properties. Suitable conditions are, therefore, capable of mitigating any adverse effect in terms of flood risk.

Conditions

20. The Council provided a suggested list of conditions. Where appropriate, the wording has been slightly amended to accord with paragraph 206 of the Framework. Conditions specifying the time limit for commencement of

development and compliance with the approved plans are necessary to provide certainty. As previously mentioned, conditions requiring matching materials, compliance with the FRA and details of surface water drainage are also necessary. However, I have amended the implementation clause of the surface water drainage condition as I consider that the agreement of details only need take place prior to any above ground development.

Conclusion

21. I have found that there would be no detrimental impact in terms of the effect of the development on a public right of way and access between Bentley Road and Frank Road given the alternative routes which are available and in use. The limited inconvenience to pedestrians arising from the obstruction of the section of public footpath running through the site does not significantly or demonstrably outweigh the benefits of the development. Consequently, the proposal does not conflict with the development plan or the Framework when taken as a whole.
22. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be allowed and planning permission granted subject to the conditions previously set out.

Gareth Wildgoose

INSPECTOR

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By virtue of paragraph(s) 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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