



# Doncaster Council

## Agenda

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To all Members of the

## **PLANNING COMMITTEE**

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

**Venue:** Council Chamber, Civic Office, Waterdale, Doncaster DN1 3BU  
Waterdale, Doncaster

**Date:** Tuesday, 31st May, 2022

**Time:** 2.00 pm

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**Damian Allen**  
Chief Executive

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Issued on: Monday, 23 May 2022

Governance Services Officer for this meeting

Doncaster Metropolitan Borough Council  
[www.doncaster.gov.uk](http://www.doncaster.gov.uk)

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	
4.	Minutes of the Planning Committee Meeting held on 26th April, 2022	1 - 6
<b>A.</b>	<b>Reports where the Public and Press may not be excluded.</b>	
	<b><u>For Decision</u></b>	
5.	Schedule of Applications	7 - 36
	<b><u>For Information</u></b>	
<b>B.</b>	<b>Pre Committee Notes - 31 May, 2022</b>	37 - 38
6.	Appeal Decisions	39 - 70
7.	Planning Enforcement Quarterly Report - March 2022	71 - 86

### **Members of the Planning Committee**

Chair – Councillor Susan Durant

Vice-Chair – Councillor Duncan Anderson

Councillors Iris Beech, Steve Cox, Aimee Dickson, Sue Farmer, Charlie Hogarth, Sophie Liu, Andy Pickering and Gary Stapleton

# Agenda Item 4.

## DONCASTER METROPOLITAN BOROUGH COUNCIL

### PLANNING COMMITTEE

TUESDAY, 26TH APRIL, 2022

A MEETING of the PLANNING COMMITTEE was held at the COUNCIL CHAMBER, CIVIC OFFICE, WATERDALE, DONCASTER DN1 3BU on TUESDAY, 26TH APRIL, 2022, at 2.00 pm.

#### PRESENT:

Vice-Chair - Councillor Duncan Anderson (In the Chair)

Councillors Iris Beech, Steve Cox, Sue Farmer, Charlie Hogarth and Gary Stapleton

#### APOLOGIES:

Apologies for absence were received from the Chair Councillor Susan Durant and Councillors Aimee Dickson, Sophie Liu and Andy Pickering.

#### 71 DECLARATIONS OF INTEREST, IF ANY.

In accordance with the Members' Code of Conduct, Councillor Steve Cox declared an interest in relation to Application No 21/01502/FULM, Agenda Item No.5 (2) by virtue of being the Local Ward Member and having requested to speak in opposition to the application and took no part in the discussion or vote on the application.

#### 72 MINUTES OF THE PLANNING COMMITTEE MEETING HELD ON 29TH MARCH 2022.

RESOLVED that the minutes of the meeting held on 29th March, 2022 be approved as a correct record and signed by the Chair.

#### 73 SCHEDULE OF APPLICATIONS.

RESOLVED that upon 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'.

#### 74 TOWN AND COUNTRY PLANNING ACT 1990, SECTION 106 AGREEMENTS.

RESOLVED that prior to the issue of planning permission in respect of the following planning application, which is included in the Schedule of Planning and Other Applications marked Appendix 'A' and attached hereto, the applicant be required to enter into an Agreement under Section 106 of the Town and Country Planning Act 1990, regulating the development:-

<b>Application No.</b>	<b>Description and Location</b>
21/01502/FULM	Erection of 33 dwellings and associated infrastructure land off Church Lane, Finningley, Doncaster.

75 APPEAL DECISIONS.

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

<b>Application No.</b>	<b>Application Description &amp; Location</b>	<b>Appeal Decision</b>	<b>Ward</b>	<b>Decision Type</b>	<b>Committee Overturn</b>
21/01759/FUL	Erection of detached 4-bedroom dwelling and associated works (amended from an outline application to a full planning application) at 37 Allenby Crescent, New Rossington, Doncaster, DN11 0JX	Appeal Dismissed 30/03/2022	Rossington And Bawtry	Delegated	No
21/02711/ADV	Installation of freestanding internally illuminated 48 sheet D-Poster display sign. at Goals, Worcester Avenue, Wheatley, Doncaster	Appeal Dismissed 29/03/2022	Wheatley Hills And Intake	Delegated	No
19/00382/M	Appeal against enforcement action for unauthorised replacement of larger windows to first floor without planning permission under grounds B C D and E at N C B Officials Club, The Crescent, Woodlands, Doncaster	ENF Appeal Allowed, ENF Notice Quashed 07/04/2022	Adwick Le Street And Carcroft		No

## DONCASTER METROPOLITAN BOROUGH COUNCIL

## PLANNING COMMITTEE – 26th April, 2022

<b>Application</b>	1		
<b>Application Number:</b>	21/01109/FUL		
<b>Application Type:</b>	Full Planning		
<b>Proposal Description:</b>	Landscape works to area within the walled garden at Hooton Pagnell Hall to create new car parking area, a wildflower garden and a way finding lighting scheme.		
<b>At:</b>	Hooton Pagnell Hall Hooton Pagnell Village Streets Hooton Pagnell Doncaster DN5 7BW		
<b>For:</b>	Mr Mark Norbury		
<b>Third Party Reps:</b>	8 letters of objection	<b>Parish:</b>	Hooton Pagnell
		<b>Ward:</b>	Sprotbrough

A proposal was made to grant planning permission.

**Proposed by:** Councillor Sue Farmer

**Seconded by:** Councillor Iris Beech

**For:** 6      **Against:** 0      **Abstain:** 0

**Decision:** Planning permission granted subject to the addition of the conditions 18 and 19 as follows:-

**18. Part A (pre-commencement)**

No development, including any demolition and groundworks, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The WSI shall include:

The programme and method of site investigation and recording.  
The requirement to seek preservation in situ of identified features of importance.

The programme for post-investigation assessment.  
The provision to be made for analysis and reporting.  
The provision to be made for publication and dissemination of the results.  
The provision to be made for deposition of the archive created.  
Nomination of a competent person/persons or organisation to undertake the works.  
The timetable for completion of all site investigation and post-investigation works.

**Part B (pre-occupation/use)**

Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.

**REASON**

Required prior to commencement of development to safeguard the archaeological interest in the site in accordance with Policy 39 of the Local Plan.

19. No parking by visitors or staff shall take place outside of the approved areas as shown on approved plan 'Proposed Layout Rev 1' and demarcated by the areas shown within the 'walled garden' and the yellow areas indicating existing parking areas.

**REASON**

In the interests of preserving the openness of the Green Belt and the conservation interest of the area.

In accordance with Planning Guidance, 'Having Your Say at Planning Committee', Mr Alan Sampson (Applicant) spoke in support of the application for the duration of up to 5 minutes.

(As previously reported at the Planning meeting on 1st February, 2022, conditions 11 and 12 (Drainage Pipework) are to be removed).

<b>Application</b>	2
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<b>Application Number:</b>	21/01502/FULM
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<b>Application Type:</b>	Planning FULL Major
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<b>Proposal Description:</b>	Erection of 33 dwellings and associated infrastructure.
<b>At:</b>	Land off Church Lane, Finningley

<b>For:</b>	Partner Construction and Guinness Partnership
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<b>Third Party Reps:</b>	57 letters of objection 1 letter of support	<b>Parish:</b>	Finningely Parish Council
		<b>Ward:</b>	Finningley

A proposal was made to grant the Application subject to the completion of a Section 106 agreement.

Proposed by: Councillor Iris Beech

Seconded by: Councillor Duncan Anderson

For: 4 Against: 0 Abstain: 1

**Decision:** Planning permission granted subject to the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 in relation to the following matters and the Head of Planning be authorised to issue the planning permission on completion of the Agreement, to read as follows:-

- (a) 100% affordable housing to be secured in perpetuity
- (b) Off-site ecological enhancement or a commuted sum of £106,700 for the Council to identify and provide ecological enhancement on an alternative site.

In accordance with Planning Guidance, 'Having Your Say at Planning Committee', the following individuals spoke on the application for the duration of up to 5 minutes:-

- Councillor Steve Cox (Ward Member) spoke in opposition to the application; and
- Mr Alastair Willis of Litchfields (Planning agent) spoke in support of the application. Amie Hutton of Guinness (Applicant) assisted in answering questions.

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## **DONCASTER METROPOLITAN BOROUGH COUNCIL**

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. Any pre-committee amendments will be detailed at the beginning of each item.

### **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.

### **Copyright Implications**

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Scott Cardwell  
Assistant Director of Economy and 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'  
Any pre-committee amendments will be detailed at the beginning of each item.

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Application	Application No	Ward	Parish
1.	21/01536/FUL	Thorne And Moorends	Thorne Town Council

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<b>Application</b>	1.
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<b>Application Number:</b>	21/01536/FUL
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<b>Application Type:</b>	Section 73 Application
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<b>Proposal Description:</b>	Section 73 Application to vary conditions 2 and 11 of Planning Permission 16/02725/FUL (as altered from 15/02286/FUL) 1. Alterations to boundary wall to reduce in height from 3.3m to 2.2m, to be repaired and repointed. (amended description)
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<b>At:</b>	1 Thorne Hall Court, Ellison Street, Thorne, DN8 5LE
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<b>For:</b>	Mr Frazer Fillingham (agent), on behalf of Mr Alex Cutts (applicant)
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<b>Third Party Reps:</b>	29 representations	<b>Parish:</b>	Thorne
		<b>Ward:</b>	Thorne and Moorends

<b>Author of Report:</b>	Dave Richards
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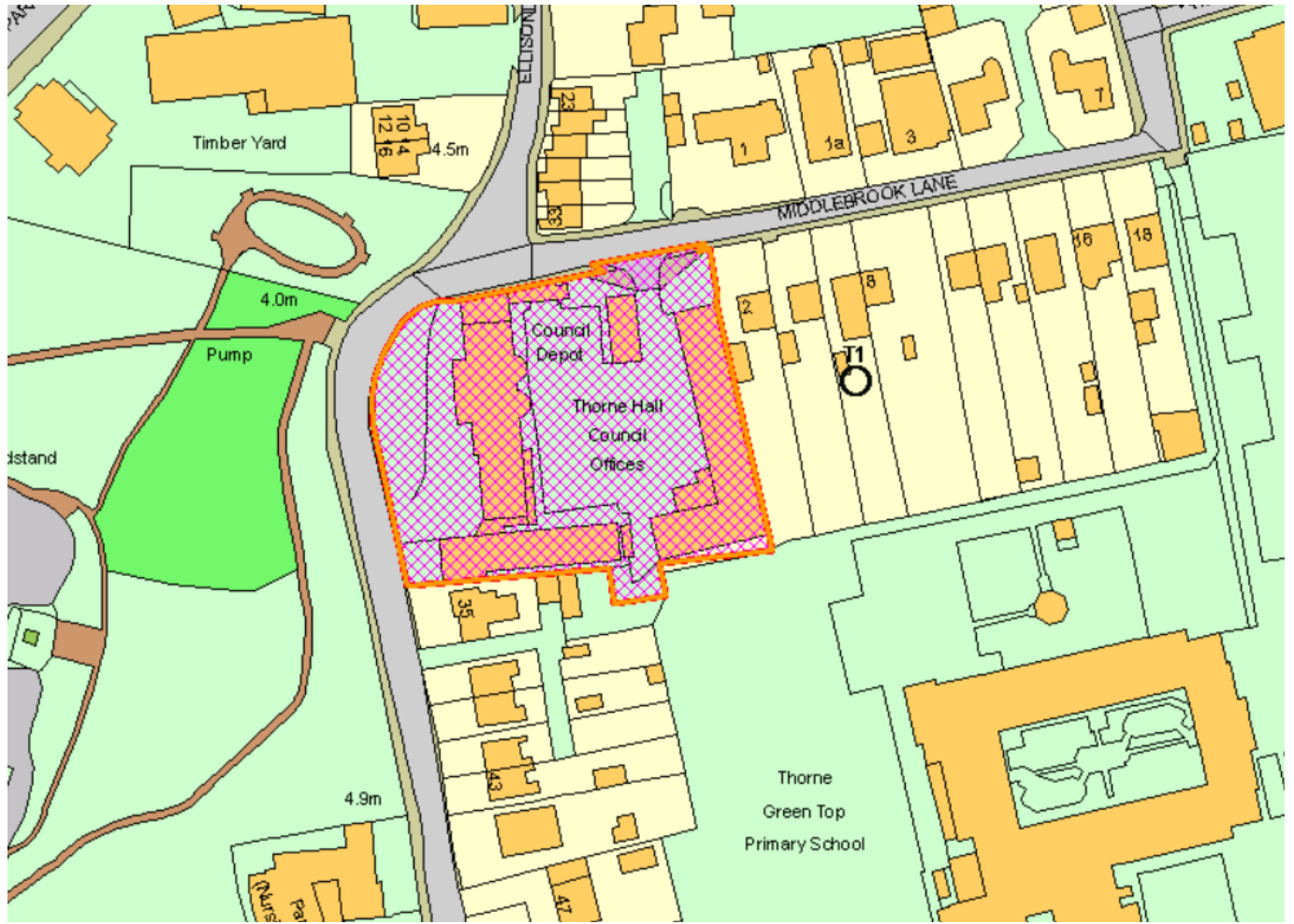
## SUMMARY

The application seeks planning permission to vary the approved conditions relating to planning permission 16/02725/FUL (as altered from 15/02286/FUL) to implement the recommendations of a structural survey to make alterations to a section of a listed wall adjacent to Thorne Hall Court and 65 Ellison Street. The site lies within the Thorne Conservation Area and within the Curtilage of Thorne Hall, a Grade II Listed building.

It is still my opinion that the wall should be reduced in height to ensure it retains a suitable thickness to its height as the current scheme of agreed works will not ensure that the current height of the wall can be maintained. However, this approach has been previously proposed by the developer and the recommendation to grant planning permission was refused planning permission by Members in 2019.

The report therefore sets out that public safety is the overriding justification for implementing the recommendations set out in the survey. The interventions to the character of the wall would result in 'less than substantial harm' to the character and appearance of the Conservation Area and setting of Thorne Hall, but that this harm is outweighed by public benefits of the proposal.

**RECOMMENDATION: GRANT variation to the conditions subject to the planning permission as set out in the recommendation.**



## **1.0 Reason for Report**

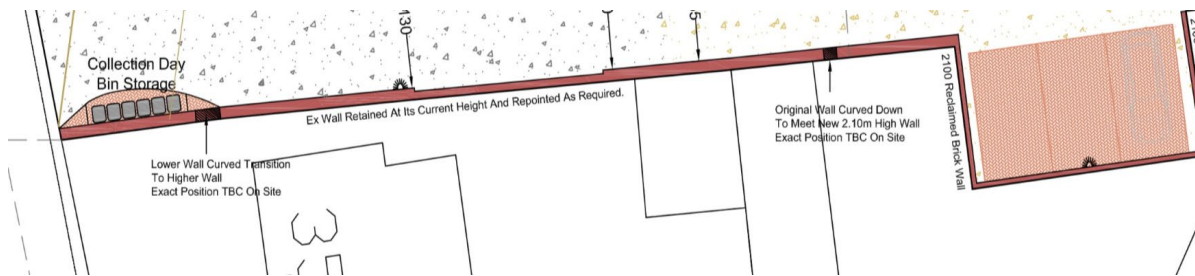
- 1.1 This application is being presented to Planning Committee at the request of Cllr Mark Houlbrook and due to the public interest shown in the application.

## **2.0 Proposal and Background**

- 2.1 The application seeks to vary conditions 2 and 11 of Planning Permission 16/02725/FUL (as altered from 15/02286/FUL). The effect of this permission would be to supersede the requirement to carry out an agreed set of works to a listed wall and implement the recommendations of an independent structural survey.
- 2.2 The proposal relates to a section of boundary wall adjacent to the access road between 1 Thorne Hall Court and 25 Ellison Street, Thorne. The wall is curtilage listed to Thorne Hall, which is Grade II listed. Thorne Hall has undergone redevelopment to provide five new dwellings under the original parent planning permission reference 15/02286/FUL.
- 2.3 A concurrent application for listed building consent (21/01199/LBC) twin tracks the current application and any recommendation will follow for this consent.

## **3.0 Site Description**

- 3.1 Thorne Hall is Grade II listed and lies within Thorne Conservation Area. According to Historic England, Thorne Hall is listed because it is a good representative example of a mid to late 18th century house with early 19th century alterations. The interior of the building retains good-quality fixtures and fittings typical of the period and notes examples of high level of craftsmanship. It notes that the late-C19 or early-C20 two-storey extensions to the pavilion wings and the two-storey and single-storey buildings arranged round the depot yard are not of special interest.
- 3.2 The wall in question has been altered and added to over time but despite its current appearance, contains historic fabric, and provides a firm edge to the conservation area and makes a positive contribution to the significance of Thorne Hall. It does not, however, form part of the listing description to the asset and does not hold the same intrinsic value as Thorne Hall itself.
- 3.3 For the purposes of this report, references will be made to “the wall” which would be affected by the works. This part of the wall runs for approximately 10.5m in length along the common boundary shared with 35 Ellison Street. The height of the wall varies across the affected area depending on the condition of the brickwork, from 3.3m to 1.6m towards the front of the site. The wall section is bookended by proposed transitions to lower walls shaded in black as shown in the drawing extract below:



**Figure 1: The wall (approved plan: planning permission 16/02725/FUL)**

#### **4.0 Relevant Planning History**

4.1 The planning history to this application is a key consideration and all applications listed below are material to the decision.

##### *The original planning permission*

4.2 In 2015, Planning Permission 15/02286/FUL granted the redevelopment of the site to provide four detached dwellings, its associated works and the conversion of Thorne Hall to a single dwelling. A copy of the approved site plan showing the overall layout is shown in Appendix 2.

4.3 It is pertinent to note that the original planning permission granted the partial demolition of the listed wall to 2.4m and its repair using reclaimed brick. The approved plan shows the existing wall to be retained and repointed but reduced to a maximum wall height of 2.4m to ensure stability. An extract of the agreed works is shown in Appendix 3.

##### *The variation*

4.4 Following development commencing, in 2017 Planning Permission 16/02725/FUL regularised variances to the original planning permission. These included the repositioning of Plot 1 approximately 1m further away from Thorne Hall, changes to landscaping and minor alterations to the access arrangement to Plots 4 and 5.

4.5 Following concerns raised by the occupier of 35 Ellison Street, it was proposed that the wall was retained at its current height rather than reduced to 2.4m across its length under the original planning permission.

4.6 A scheme of works “the wall maintenance schedule” was imposed via a condition and the approved plans. The schedule of the works would increase the thickness of the wall to support a new full height infill brickwork wall, approximately 225mm thick and 8.7m in length to give a continuous flush wall. The wall would also be generally repointed and repaired to prevent water ingress. The intended section for reference is shown shaded in turquoise in appendix 4.

##### *The request to reduce again*

4.7 In 2018, Planning Reference 18/02761/FUL sought to reduce the height of the wall to 2.2m and in effect, nullify the requirement for the wall maintenance works to be carried out. The justification for the request was based on advice that the wall no

longer benefited from any significant lateral support and retaining the wall at its current height would not conform to current design codes. A number of options, including the use of wall ties and buttressing, were considered but my recommendation was that the wall be reduced in a manner consistent with the original planning permission, albeit to 2.2m in height as opposed to 2.4m

- 4.8 The request was recommended by Planning Officers at Planning Committee in June 2019 but was refused planning permission following a resolution by the Council's Planning Committee. Members gave the following reason for the decision:

*The proposal to reduce the height of the wall would harm the historic fabric and significance of a heritage asset and the character and appearance of the Thorne Conservation Area, which would be neither preserved nor enhanced. The proposal would therefore conflict with Policy CS15 of the Core Strategy, Policies ENV25 and ENV34 of the UDP and Policy DDH1 of the Thorne and Moorends Neighbourhood Plan. It would also conflict with one of the core principles of the NPPF to conserve heritage assets in a manner appropriate to their significance.*

#### *Current position*

- 4.9 Following this decision, Officers reconsidered the current planning position for the development, given enforcement action was to be considered when faced with the non-compliance to complete the wall maintenance schedule agreed under Planning Permission 16/02725/FUL.
- 4.10 As part of this assessment, the Council commissioned an independent survey of the wall to assess the general structural condition of the wall and reconsider the requirements of the wall maintenance schedule to ensure it was fit for purpose and enforceable.
- 4.11 The survey concluded that the thickness (or slenderness ratio) would still remain less than the recommended guidance, making it theoretically much more susceptible to failure, even if the improvement works have taken place in line with the existing permission. Based on this advice, the applicant has sought to submit a variation to Planning Permission 16/02725/FUL to substitute the requirements of the wall maintenance schedule with the recommendations set out in the survey.

## **5.0 Site Allocation**

- 5.1 The site falls within Residential Policy Area, as defined by the Doncaster Local Plan (adopted in 2021), and Thorne Central Conservation Area. The Draft Thorne Neighbourhood plan shows the site being located within the main town development limits.

## **5.2 National Planning Policy Framework (NPPF 2021)**

- 5.3 The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and the relevant sections are outlined below:

- 5.4 Paragraph 2 states that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.5 Paragraphs 7 – 11 establish that all decisions should be based on the principles of a presumption of sustainable development.
- 5.6 Paragraph 47 reiterates that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.7 Paragraph 56 states that planning conditions should be kept to a minimum and only be imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 5.8 Paragraph 59 refers to effective enforcement action as discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.
- 5.9 Paragraph 97 states planning policies and decisions should promote public safety by anticipating and addressing possible malicious threats and natural hazards.
- 5.10 Paragraph 119 requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 5.11 Paragraph 130 states planning decisions should, amongst other things, ensure developments will function well and add to the overall quality of the area, are visually attractive and optimise the potential of the site and are sympathetic to local character and history. Subsection 130 requires developments to be made safe, inclusive and accessible .
- 5.12 Paragraph 174 states planning policies and decisions should contribute to and enhance the natural and local environment, including preventing new and existing development from being put at unacceptable risk from land instability.
- 5.13 Paragraph 183 states planning policies and decisions should ensure that a site is suitable taking account of ground conditions and any risks arising from land instability and contamination.
- 5.14 Paragraph 184 states where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 5.15 Paragraph 189 describes heritage assets as an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 5.16 Paragraph 190 states plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In determining applications, local planning authorities should take account of:



- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
  - c) the desirability of new development making a positive contribution to local character and distinctiveness; and
  - d) opportunities to draw on the contribution made by the historic environment to the character of a place.
- 5.17 Paragraph 195 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 5.18 Paragraph 196 states where there is evidence of deliberate neglect of, or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
- 5.19 Paragraph 199 states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 5.20 Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 5.21 Paragraph 202 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 5.22 Local Plan**
- 5.23 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Doncaster includes the Doncaster Local Plan (adopted 23 September 2021).
- 5.24 The following Local Plan policies are the most relevant in this case:
- 5.25 The site lies within a Residential Policy Area according to Policy 10. This policy supports new residential development (in line with its original permission) providing it, amongst other matters, protects and enhances the qualities of the existing area and contribute to a safe, healthy and prosperous neighbourhood.

- 5.26 Policy 34 states proposals and initiatives will be supported which preserve and, where appropriate, enhance the heritage significance and setting of the Borough's heritage assets. Thorne is mentioned as an historic market town which should be protected and that new development should support the re-use and investment in the repair and maintenance of Doncaster's historic buildings.
- 5.27 Policy 36 states development proposals affecting a listed building or its setting will be assessed using a number of key principles, including those which enhance or better reveal the significance of a listed building or structure. Proposals that harm the significance of a listed building or its setting will not be supported other than in circumstances where that harm is clearly outweighed by the public benefits of the proposal having regard to the significance of the heritage asset affected.
- 5.28 Policy 37 relates to development affecting, or within the setting of, Conservation Areas. Proposals that result in harm to a conservation area will be refused unless the harm is outweighed by public benefits arising from the development. The policy states that proposals within conservation areas requiring the demolition of buildings that make a positive contribution to the conservation area will not be supported unless it would result in demonstrable public benefits sufficient to outweigh the harm. Any proposal for the demolition of a building or site in a conservation area will need to be accompanied by an acceptable redevelopment scheme or a remedial scheme for making good the building or site, which will be required to be implemented immediately following demolition.
- 5.29 Policy 42 requires proposals to reflect and respect character and local distinctiveness. In all cases, the components of a development must be designed and assessed to ensure that, amongst other things, it provides safe and secure private property, public areas and the adoptable highway ensuring access points
- 5.30 Policy 48 states that development will be supported which protects landscape character, protects and enhances existing landscape features, and provides a high quality, comprehensive hard and soft landscape scheme.
- 5.31 Policy 55 deals with the need to mitigate any contamination or land stability on site by:
- A) demonstrating there is no significant harm, or risk of significant harm, to human health, or land, natural environment, pollution of soil or any watercourse or ground water;
  - B) ensuring necessary remedial action is undertaken to safeguard users or occupiers of the site or neighbouring land and protect the environment and any buildings or services from contamination during development and in the future;
  - C) demonstrating that adverse ground conditions have been properly identified and safely treated; and
  - D) clearly demonstrating to the satisfaction of the Local Planning Authority, that the land is suitable for its proposed use.

### **5.32 Thorne and Moorends Neighbourhood Plan**

- 5.33 Thorne and Moorends Town Council have published their neighbourhood plan (NP) and currently modifications are being made to it. The policies relevant to the current

application include Policies DDH1, DDH3 and T4 and these attract moderate weight at this stage. These policies concern development in a conservation area, which affects the setting of a listed building.

### **5.34 Other material planning considerations and guidance**

- 5.35 Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 puts a statutory duty on local planning authorities to pay special attention to preserving or enhancing the character or appearance of listed buildings and conservation areas. That duty is reflected in the policies of Chapter 11 of the DLP which include the development management policies applicable to protecting the historic environment of the Borough. These policies have been assessed as sound and follow the significance led approach of national policy in the NPPF.
- 5.36 The National Planning Policy Guidance Advises on enhancing and conserving the historic environment. It sets out key definitions on relevant topics such as how the significance of assets should be assessed, how harm can affect such assets and how to determine the public benefits of a proposal.
- 5.37 Doncaster Council's previous suite of adopted Supplementary Planning Documents (SPDs) have been formally revoked in line with Regulation 15 of the Town and Country Planning (Local Planning) (England) Regulations 2012, following the adoption of the Local Plan. The SPDs refer to superseded development plan policies, and some provide guidance which is not in accordance with the new Local Plan. The Transitional Developer Guidance (April 2022) provides guidance on certain elements, including design, during the interim period, whilst new SPDs to support the adopted Local Plan are progressed and adopted. The Transitional Developer Guidance, Carr Lodge Design Code and the South Yorkshire Residential Design Guide (SYRDG), should be treated as informal guidance only as they are not formally adopted SPDs. These documents can be treated as material considerations in decision-making, but with only limited weight.

## **6.0 Representations**

- 6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) by means of site notice, council website, press advertisement and neighbour notification.
- 6.2 Cllr Mark Holbrook initially called in the application for the following reason:

An application was submitted previously, for the same works, but was rejected at planning committee. I understand that nothing has changed, other than the release of an engineer's report which does not state the wall is unsafe, among other things.

Following a site meeting and reviewing the further details, Cllr Houlbrook's full response is below:

My view is to accept the engineers report, in full.

I also feel that developer was allowed to take down a section of the wall without consent. Without consent would deem this to be an illegal act and in planning terms, would be a criminal act. I am unsure why no action was taken to address

this issue with the developer. This would seem to be very unfair and unreasonable in the circumstances.

The height of the wall should remain at the same height, with the pointing of the wall on the external side of the wall (facing Thorne Wall). Quite frankly, it's an eyesore. The side of the wall, to the rear of premises should be tapered down so that it's the same as the front part of the wall. There is of course a requirement to place coping stones (not paving slabs) on the top of the wall. I would certainly recommend this

6.3 25 representations have raised the following issues:

- A reduction in wall height will result in loss of privacy
- The wall should be protected and suitable/agreed restoration work should be completed
- Loss of fabric to the wall
- Claims that the wall is unsafe and a pressing safety issue are wrong

The majority of the comments mentioned above refer to a proposal to reduce the height of the wall which is incorrect. The proposal is to retain the wall at its current height and implement the recommendations of the submitted survey. Therefore, the proposal would be in accordance with the general principles of the concerns raised.

In addition, the adjacent neighbours to the wall have been individually consulted and their responses are set out as follows:

6.4 Mr Michael and Mrs Lyn Mulligan, 1 Thorne Hall Court –

- The wall should be reduced in height to match the other walls around the Thorne Hall complex.
- This will make it safer and more in keeping with the surrounding area.
- The bricks that would be salvaged from the reduction could be used to repair/replace the weathered damaged bricks in the original wall.
- The road that runs along side the wall is in constant use by pedestrians (adults and children) as well as vehicles, which is a worry to all of us and others that use the road.

Mr Gary Flavell, 2 Thorne Hall Court -

- The wall is a significant safety concern to neighbouring properties and access ways used by both foot passengers and vehicle traffic.
- Damage to the wall continues to develop by vegetation
- If the wall fails it would restrict access to properties on Thorne Hall

Mr Paul Wallace, 3 Thorne Hall Court -

I support a reduction in height of wall and object to keeping height as current for the following reasons:

- Wall was originally approved by planning for reduction, only to be revoked after minor amendment to plot 1.
- Objections were raised site historic interest - Unfortunately a precedent has been set as no objections were raised at previous planning applications regarding Thorne Hall when it was a council office and new vehicle access was granted resulting in Boundary walls being removed.
- Other listed buildings have been demolished in Thorne.
- The Wall is not road facing, and a reduction will not only keep most of the listed wall visible 78% vs 28%. but also a reduction keeps it in sympathy with existing wall surrounding Thorne Hall.
- The proposal to add a wall to thicken will cost more take away from the existing façade and unfortunately the owner of the wall is different from the owner of the land that the proposed wall would be built on.
- Vegetation and Ivy from 35 Ellison Street has added to deterioration of the wall given the mortar joints are of lime and in some places the Ivy has penetrated the wall, this needs addressing to avoid problems in future.
- I refer to CDA 1971 act - also permission is normally required to attach a structure to a wall not owned by the same.
- It must be commented on the local developer has done a great job in redeveloping a listed property which had been allowed to deteriorate by previous owners and in doing so built some modern homes to a high specification.
- This development is something Thorne Parish council should be proud of and has increased the value of neighbouring properties to Thorne hall.
- People have the right to air their objections but if they state due to historic reasons need to look hard at why they didn't object to other listed applications , some of these wouldn't have been contacted on this application and a few of the objections appear to be copy and paste with some detail removed.

#### 6.5 Mr Neil Martin, 35 Ellison Street –

- The wall should be preserved and important in terms of its historic merit
- Works should be carried out in accordance with the agreed wall maintenance schedule
- Unauthorised works have taken place to the wall
- Inaccuracies with the submitted documents
- Damage to the wall due to lack of maintenance and age, not vegetation

#### *Officer comments on other issues raised*

- 6.6 As noted above, objectors have noted any reduction in the wall would result in a loss of privacy. The wall would be retained at its current height and offers substantial screening to the boundary at ground floor level.

6.7 Representations have noted unauthorised works which have previously taken place to the wall. These claims have been investigated by the Council and have not found expediency to take further action. This decision is based on the nature of the works themselves which have not been judged as harmful to the asset. Furthermore, the action was considered in light of submitted proposals which a) allow restorative works to be agreed under the wall maintenance schedule conditioned as part of 16/02725/FUL and b) the affected area was subject to a proposal to reduce the height of the wall under reference 18/02761/FUL.

6.8 An objector has noted that No. 1 Thorne Hall Court has not received notice of the development. Notwithstanding this, the Council have written to this property on a number of occasions to inform them of the planning application, the proposal and its implications. The occupants have contacted the planning department and are aware of the proposals.

## **7.0 Thorne Town Council**

7.1 No comments received.

## **8.0 Relevant Consultations**

### **8.1 Conservation Officer –**

During the course of the application, the intention of the proposal was clarified. It is noted that this has been refused previously against previous recommendations but has been subject to further independent structural advice. Whilst the wall is important in terms of its historic merit unfortunately to retain it to its current height safely it will either need massive buttresses, which cannot be accommodated and also would not visually look appropriate, or have a skin of modern bricks with extensive reinforcements which would be considered to inevitably reduce the wall's historic interest.

In order to retain as much of the historic interest of the wall its reduction would be the preferred course of action. However, any reduction of the wall should be accompanied by an appropriate stone coping and sensitive repair for the whole stretch of historic walling to mitigate the reduction in height of the wall.

If the full length of the historic brick wall is provided with an appropriate coping, its reduction would be considered acceptable. Whilst there is some harm to the significance of the wall, the setting of the listed hall and the conservation area it is within this is outweighed by the public benefit of having a stable wall that retains its historic integrity as much as possible and the improvement of its overall appearance.

## **9.0 Assessment**

9.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

*'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.*

9.2 The NPPF at paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan,

unless material considerations indicate otherwise. The NPPF must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

- 9.3 This report considers the proposal against the Development Plan (Doncaster Local Plan, Joint Waste Plan), the relevant sections of the NPPF and the National Planning Practice Guidance.
- 9.4 The main issue is whether the proposal would preserve the setting of a curtilage listed asset, a section of wall adjacent to 35 Ellison Street and Thorne Hall Court, and if harm arises, whether it is outweighed by other public benefits.
- 9.5 For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale:
- Substantial
  - Considerable
  - Significant
  - Moderate
  - Modest
  - Limited
  - Little or no

### **Principle of Development**

- 9.6 It is important to note the planning history background to the application set out in paragraphs 4.1 to 4.10 of this report. The original planning permission for the redevelopment of Thorne Hall includes a reduction in the wall to a height of 2.2m. Although it was subsequently agreed to maintain the height of the wall by a later variation to this planning permission, in effect the original permission was implemented and remains a material consideration in the determination of any future planning applications.

## **9.7 ENVIRONMENTAL SUSTAINABILITY**

### **Impact on the Character of the Conservation Area**

- 9.8 Government policy in respect of the historic environment is set out in the National Planning Policy Framework (NPPF). The NPPF recognises that historic assets are an irreplaceable resource that local authorities should conserve in a manner appropriate to their significance. Any harm, which is less than substantial, must be weighed against the public benefit of the proposal.
- 9.9 The Council's Local Plan also places great emphasis on preserving and enhancing the distinctive features of the Borough's many conservation areas and listed assets. The conservation area is also supported by an appraisal, which describes the intrinsic value of the conservation area in more detail. The approach overall to the protection of heritage assets should be seen as consistent with national policy and can attribute significant weight.

- 9.10 According to Historic England, Thorne Hall is listed because it is a good representative example of a mid to late 18th century house with early 19th century alterations. The interior of the building retains good-quality fixtures and fittings typical of the period and notes examples of high level of craftsmanship. There is little mention of the boundary walls to the listing and the significance is largely restricted to the internal and external plan form of the building.
- 9.11 Boundary walls in the conservation area where they are historic and appropriate in character and materials are worthy of retention and protection in order to preserve the character and appearance of the area. The demolition or part demolition of boundary walls therefore should be seen as a last resort. This is because the removal of walls disrupts the rhythm of features that are important within the street scene and can significantly alter the sense of enclosure of the street.
- 9.12 The wall in question has been altered and added to over time but despite its current appearance, contains historic fabric, and provides a firm edge to the conservation area and makes a positive contribution to the significance of Thorne Hall. Notwithstanding this, it does not form part of the listing description to the asset and does not hold the same intrinsic value as Thorne Hall itself.

*The current condition of the wall*

- 9.13 The Head of Planning has sought the advice of an independent structural engineer to carry out a survey and report on the general structural condition of the wall. In addition, the surveyor was instructed to assess the requirements of the wall maintenance schedule that are currently extant to ensure it is fit for purpose by being enforced through existing planning conditions.
- 9.14 Three annotated photos were taken during the survey to accompany the observations above. These are reproduced below as they are helpful in describing the particular areas of interest and condition of the wall:

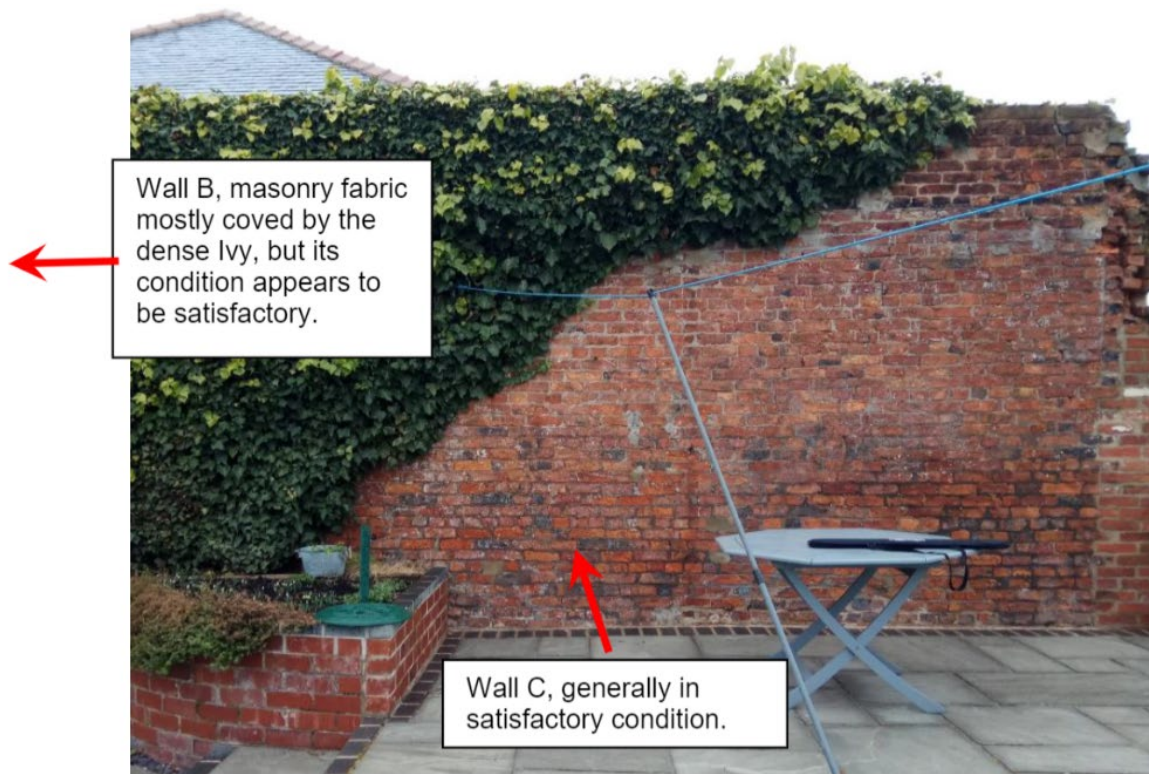




**Figure 2: Wall B. Described in the survey as indented with many areas of mismatching brickwork and dilapidated render finishes.**



**Figure 3: Interface between Wall C and Wall D.**



**Figure 4: Wall C as viewed from the garden of No. 35 Ellison Street**

9.15 The surveyor noted the following:

- (a) The wall has many areas of mismatching brickwork and random dilapidated render finishes.
- (b) The general condition of the bedjoints and the brickwork fabric varied from being reasonably good to poor (erosion and frost attacked bricks and bedjoints).
- (c) The thickness of Wall A and Wall C (on either sides of the indented Wall B) is not the same.
- (d) The verticality of Wall A, Wall C & Wall D appears to be satisfactory. Wall B (indented wall section) is marginally out of plumb at a few locations along its length.
- (e) The coping stones on top of Wall B & Wall C were either missing or showing sign of deteriorations. Wall A is a relatively newer wall of variable heights and the coping stones appear to be in satisfactory condition.
- (f) The brickwork at the point (interface of wall C & Wall D) where it changes in height was noted in poor condition.

9.16 The surveyor concluded that the general condition of the wall is varied and includes areas of missing/damaged bricks and localised eroded bedjoints. It is noted that past remedial works to the wall have taken place with the use of different types of bricks. The general alignment of the wall is seen as satisfactory, with the exception of indented sections where the wall is leaning marginally. Where sections of the wall

were visible on the neighbouring side, the fabric was seen as in satisfactory condition, with a planter offering some lateral stability (although not a permanent structure). The connection between Wall C at the interface with Wall D was noted as being in very poor condition and, in the opinion of the surveyor, vulnerable to fail in high winds.

*The requirements of the Wall Maintenance Schedule*

- 9.17 The current planning permission requires the owner to infill the indented section of the wall to enhance the lateral stability of the wall. Whilst the strengthening works would enhance the wall stability, the surveyor has noted that the slenderness ratio (height of wall divided by its thickness) after the infilling brickwork would remain under the recommended threshold, which, in this case, would limit a wall of this thickness to be no more than 2.2m high. To repair the wall in accordance with the Wall Maintenance Schedule would therefore mean that the wall would remain in excess of the maximum recommended height.
- 9.18 *The development and works*
- 9.19 As noted above, Members have not been persuaded in the past that there is sufficient justification to allow a reduction in height of the wall. Furthermore, there has been significant and sustained support for the retention of the wall by members of the public.
- 9.20 To that end, the application proposes a more invasive set of alterations to the wall in order to provide lateral stability. The proposals involve the partial demolition of the transition points to the highest part of the wall and rebuilt with steel bars embedded within the brickwork. It includes a new concrete footing to the indented sections of brickwork to build up new infill brickwork to match the existing wall in brickwork and mortar. Again, new steel bars and wall ties would be drilled within the wall. Although the survey notes the provision of steel rod posts tensioned to further improve stability, this has been suggested as optional and would involve much more substantial demolition in order to rebuild the wall. Finally, it is proposed to reuse where possible existing coping stones or new stones to offer protection from water ingress.
- 9.21 The Conservation Officer believes that the works required to retain the wall at its current height safely will inevitably reduce the wall's historic interest as parts of the wall and rebuilding will result in similar losses of fabric and replacement which would be difficult to match and tie in sympathetically. The Officer retains the view that in order to retain as much of the historic interest of the wall, a reduction in wall height would be the preferred course of action.
- 9.22 Paragraphs 201-202 of the NPPF sets out that where a proposed development will lead to harm, an assessment should be made as to whether this harm is substantial or less than substantial, in terms of then assessing whether there are any public benefits which outweigh this harm. The NPPF does not explain the difference between substantial and less than substantial harm but national policy guidance states an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. I would take this harm as defining a degree of harm that goes to the heart of the reason for designation.
- 9.23 Thorne Hall and its curtilage forms one unified heritage asset and should be treated as such. However, the listed building, and its overall significance as a designated

heritage asset, would remain intact. Similarly, the proposal would harmfully affect a small part of the conservation area. Much of the significance of the conservation area would be unaffected. In that overall context, the harm that would be caused by the proposals to the significance of the designated heritage assets affected would, in all cases, be less than substantial. There would still be harm against the asset, and therefore the proposal would conflict with Policies 36 and 37 of the Local Plan.

- 9.24 The previous application considered options to buttress the wall or to provide cantilevered wind posts to brace the wall. These options were considered by the Conservation Officer to have an equally harmful and disruptive impact on the significance of the wall, either by the additional bulk of the buttressing (which would also compromise the width of the road access), or as a result of the intrusion of wind posts being excavated into the wall.

*Final conclusions*

- 9.25 The alterations proposed would harm the special architectural and historic interest of the listed building and fail to preserve or enhance the character or appearance of the conservation area. In this situation, the NPPF requires that less than substantial harm to be weighed against public benefits.
- 9.26 Objectors to the application believe that the implementation of the Wall Maintenance Schedule would be sufficient to preserve the integrity of the wall and its long term stability. The findings of an independent survey, together with the opinion of the Council's Building Control Inspector, is that retaining the wall at its current height in this manner would not conform to current design codes. It is justified, in my view, to review conditions 2 and 11 based on the evidence of a more recent survey of the wall and the recommendations of a qualified person.
- 9.27 It is accepted that there are many free standing walls in Doncaster, likely including the historic cores of Thorne and other town centres, which may also may not meet current design standards. However, the wall at Thorne Hall has been subject to a planning application and it is therefore a requirement of the planning process to risk assess its condition as part of considering whether the current conditions attached to a planning permission continue to meet the tests of imposing restrictions on development.
- 9.28 It would be impractical and unnecessary to inspect all walls unless a risk has been identified. However, in this case, it is necessary and correct to do so. Given the age of the wall at Thorne Hall, it would not have been structurally designed, or selected in accordance with recognised guidelines. The wall has an excessive height to thickness proportion and currently is without adequate piers, buttressing or reinforcing. The wall is adjacent to a highway and so vulnerability to impact or other lateral load, whether accidental or deliberate, must also be considered. The wall contains symptoms of deterioration such as mismatching brickwork, surface crumbling and poor condition of mortar and cappings allowing water ingress. Finally, the support of the wall has been lessened by the removal of a large outbuilding which previously buttressed the wall and provided lateral stability. This was only accepted however with the original reduction in wall height to 2.4m to compensate.
- 9.29 The current condition of the wall needs to be addressed. In my view, it represents a potential safety risk to potential neighbouring occupiers, members of the public and motorists. National guidance and local planning policies are clear that planning decisions should take into account public safety and the risks resulting from land

instability and lack of compliance with modern building standards. Public safety is a material consideration in the determination of planning applications and I attach substantial importance and weight in accordance with the NPPF towards public safety. In this context, I find that the public benefits of the proposal in providing a scheme of works which would provide structural stability to the wall would outweigh the harm that it would cause.

- 9.30 In conclusion, having regard to all the relevant considerations, including the points raised by objectors, my opinion is a proposal to update the opinions of previous survey and provide a scheme of works should be supported. The wall should not be retained at its current height unless further works can be delivered. The harm resulting by this proposal would be demonstrably outweighed by the public benefits of the proposal as required by the Development Plan and the guidance set out in the NPPF. This approach would be compliant with policies 36 and 37 of the Local Plan and Paragraphs 174, 189, 190, 195, 196, 199, 200 and 201 of the NPPF.

### **9.31 SOCIAL SUSTAINABILITY**

#### Living conditions

- 9.32 Policies 10 and 44 are relevant in terms of respecting and protecting residential amenity. The reduction in overall wall height would not lead to a detrimental impact on privacy to neighbouring properties on either side. The revised wall height would be sufficient to retain adequate privacy to private residential gardens.

#### Highway Safety

- 9.33 Policy 42 deals with the components of developing, including the protection of private property, public areas and the adoptable highway. There may be some intermittent disruption to the private driveway whilst the works are ongoing but otherwise there is no permanent risk to highway safety.

### **9.34 Conclusion on Social Impacts**

- 9.35 The environmental impact of the alterations to historic fabric are discussed elsewhere in the report. However, there are no identified impacts to local amenity in other respects. The development would be in accordance with policies 10, 42 and 44 of the Local Plan, and paragraph 130(f) of the NPPF. The social impact of the development is considered to be acceptable overall.

#### Highway Safety and Traffic

- 9.36 Policy 44 of the Local Plan requires residential developments to provide sufficient convenient, safe and secure allocated parking spaces, designed so as not to negatively impact on the function or character of new and existing streets. The NPPF in para 111 states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on road safety, or the residual cumulative impacts on the road network would be severe'.

### **9.37 ECONOMIC SUSTAINABILITY**

- 9.38 It is anticipated that there would be some short-term economic benefit to the development of the site through employment of construction workers and tradesmen

connected with the build of the project, however this is restricted to a short period of time and therefore carries limited weight in favour of the application.

### **9.39 Conclusion on Economy Issues**

9.40 Para 8 a) of the NPPF (2021) sets out that in order to be economically sustainable developments should help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.

## **10.0 PLANNING BALANCE & CONCLUSION**

10.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

*'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.*

The outcome of this application therefore depends on:

- Whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits; and
- Whether the overall planning balance would be in favour or against the scheme.

10.2 In terms of the benefits of the scheme, the development would provide a suitable means of strengthening and restoring a listed wall and supersede the existing unsatisfactory works which are conditioned on a previous planning approval. In the same vein, the works would address the fundamental issue that the wall is too high in relation to its thickness and, without further lateral stability, presents a risk of failure in the future without any further intervention. The purchase of materials and services in connection with the scheme and local employment during the construction period are both economic benefits that also weigh in limited favour of the scheme.

10.3 In terms of harm, the interventions required would inevitably result in an element of demolition and rebuilding and, although close matches may be possible, it would result in the appearance and fabric of a section of the wall to be altered to more modern materials. This harm would result in an equivalent level of 'less than substantial harm' as if the wall was reduced in height as previously proposed.

10.4 For the reasons given above, and taking all other matters into consideration, the proposal is considered to present sufficient justification to grant planning permission subject to conditions set out below. Under the provisions of the NPPF, the application is considered to be a sustainable form of development.

### *Conditions*

10.5 Previous conditions have been reworded or removed to reflect that the site has now been built out.

## 11.0 RECOMMENDATION

### 11.1 MEMBERS RESOLVE TO GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT SUBJECT TO THE CONDITIONS BELOW:

#### Conditions / Reasons

01. 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:

Location plan received 28.04.21  
Structural survey received 28.04.21

#### REASON

To ensure that the development is carried out in accordance with the application as approved.

02. Within 6 months from the date of this permission, the works detailed in the submitted structural survey shall be carried out. Prior to these works, details of works to the wall after it has been altered shall be submitted to and approved in writing by the Local Planning Authority. Included in the details shall be any making good, cleaning of brickwork, repointing and the capping to the wall. Capping of the wall shall be in natural stone and a sample of the stone to be used for any new cappings shall be provided on site for the inspection of the Local Planning Authority. Where the wall has previously been reduced and capped in concrete slabs these shall be replaced in natural stone unless otherwise agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with agreed details.

#### REASON

To protect the setting of the listed building and to preserve the character and appearance of the conservation area.

03. The rooflights hereby permitted shall be low profile conservation rooflights with a central vertical glazing bar. Full details of the size, location, and design of the rooflights to be used in the construction of any of the dwellings shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. Development shall be carried out in accordance with the approved details.

#### REASON

For the avoidance of doubt, and in the interest of architectural and historic interest of the Listed Building and its setting, and preserving and enhancing the character and appearance of the Conservation Area.

04. Rainwater goods, pipework, and any fascias to be used in the construction of the dwellings shall be black unless otherwise agreed in writing by the local planning authority.

REASON

For the avoidance of doubt, and in the interest of architectural and historic interest of the Listed Building and its setting, and preserving and enhancing the character and appearance of the Conservation Area.

05. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (No.596) (England) Order 2015 (as amended), Article 3, Schedule 2: Part 1 (or any subsequent order or statutory provision revoking or re-enacting that order) no additions, extensions or other alterations other than that expressly authorised by this permission shall be carried out without prior permission of the local planning authority.

REASON

The local planning authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties or to the character of the area and for this reason would wish to control any future development to comply with Policy 41 of the Local Plan.

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (No.596) (England) Order 2015 (as amended), Article 3, Schedule 2: Part 14 (or any subsequent order or statutory provision revoking or re-enacting that order) no installation of domestic micro-regeneration equipment shall be carried out without prior permission of the local planning authority.

REASON

In the interest of architectural and historic interest of the Listed Building and its setting, and preserving and enhancing the character and appearance of the Conservation Area

07. The site shall be developed with separate systems of drainage of foul and surface water on and off the site.

REASON

In the interest of satisfactory and sustainable drainage

08. Should any unexpected significant contamination be encountered during development, all associated works shall cease and the Local Planning Authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment, in accordance with the National Planning Policy Framework and Doncaster's Local Plan Policy 54 & 55.

09. 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 be approved in writing by the LPA 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 LPA prior to any soil and soil forming material being brought on to site.

**REASON**

To secure the satisfactory development of the site in terms of human health and the wider environment, in accordance with the National Planning Policy Framework and Doncaster's Local Plan Policy 54 & 55.

10. Roller shutter doors shall be installed and maintained throughout the life of the development on the garages serving plots 4 and 5.

**REASON**

In the interests of highway safety as required by Policy CS14 of the Core Strategy.

11. The windows in the approved dwellings serving any ensuite or bathroom as indicated on the approved plans shall be permanently obscured to a level of obscurity to Pilkington level 3 or above or its technical equivalent by other manufactures and shall be permanently retained in that condition thereafter, unless otherwise approved in writing by the local planning authority.

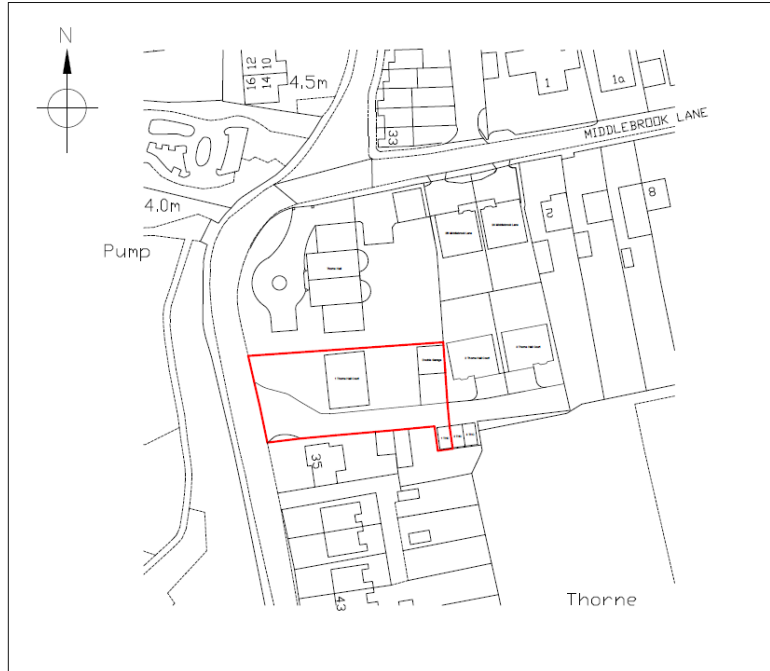
**REASON**

To ensure that the development does not impact on the privacy of the adjoining premises in accordance with Policy 44 of the Local Plan.

**The above objections, consideration 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.**

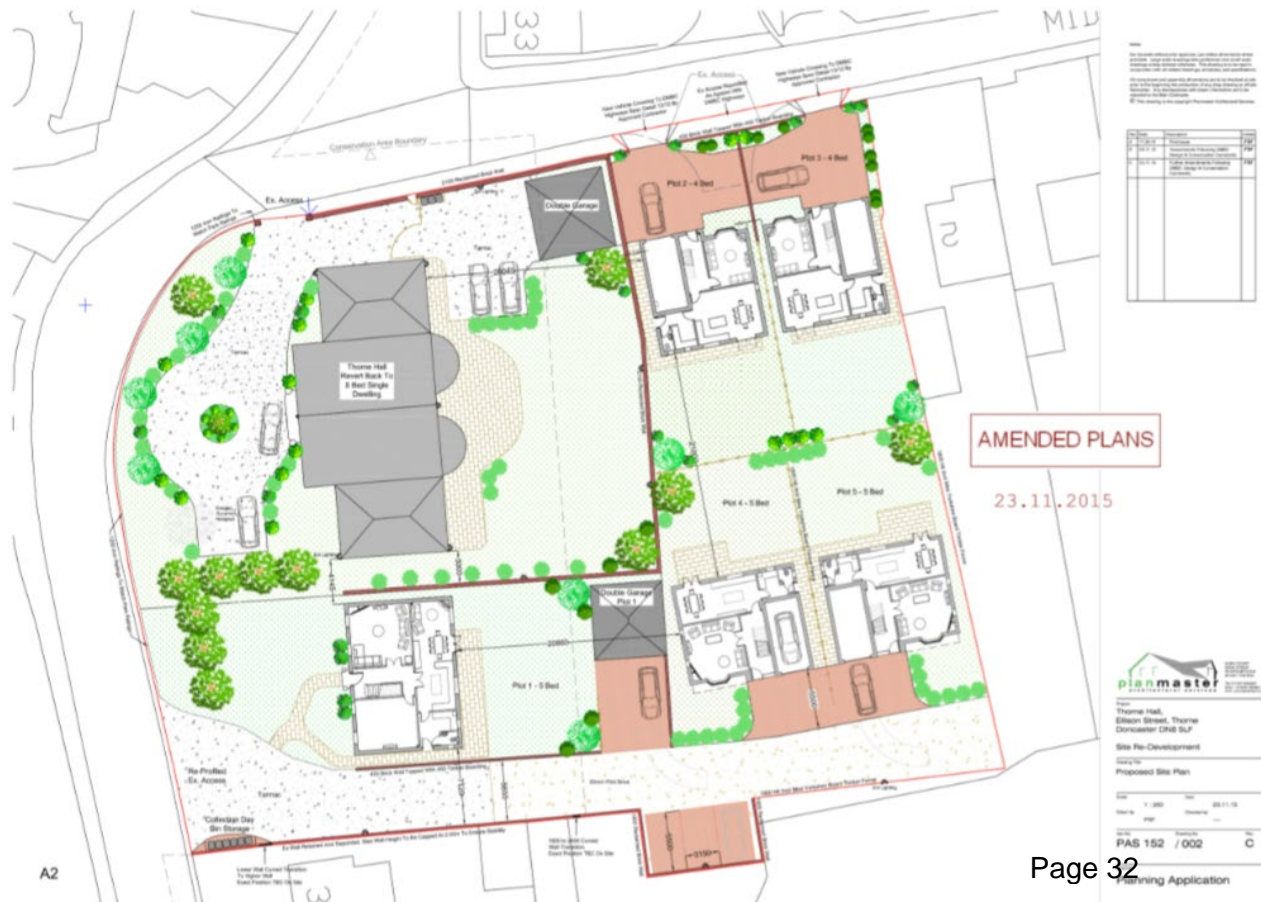
# Appendices

## Appendix 1 – Location Plan

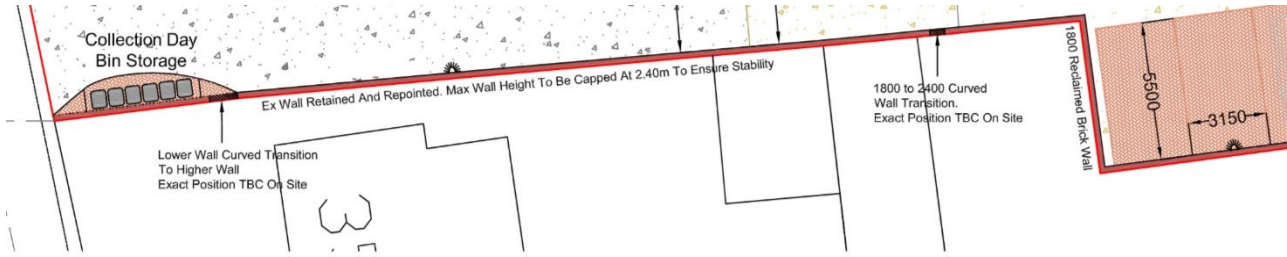


Site Location  
Scale 1:1250

## Appendix 2: Approved Site Plan (planning permission 15/02286/FUL)



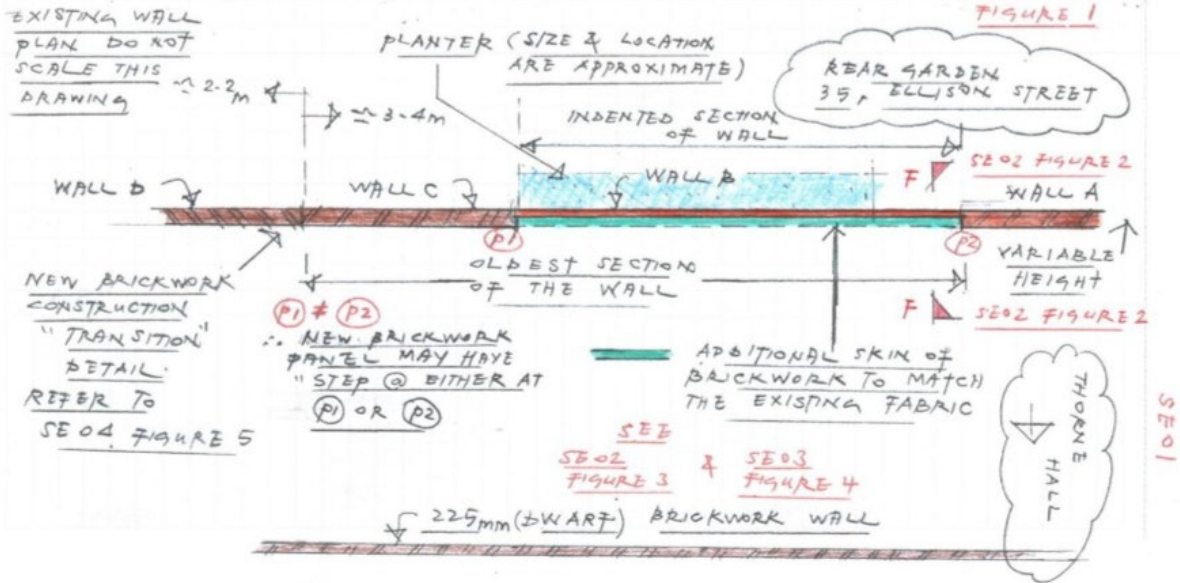
# Appendix 3: Alterations to the wall planning permission 15/02286/FUL



## Appendix 4 - Proposed plans - SE01

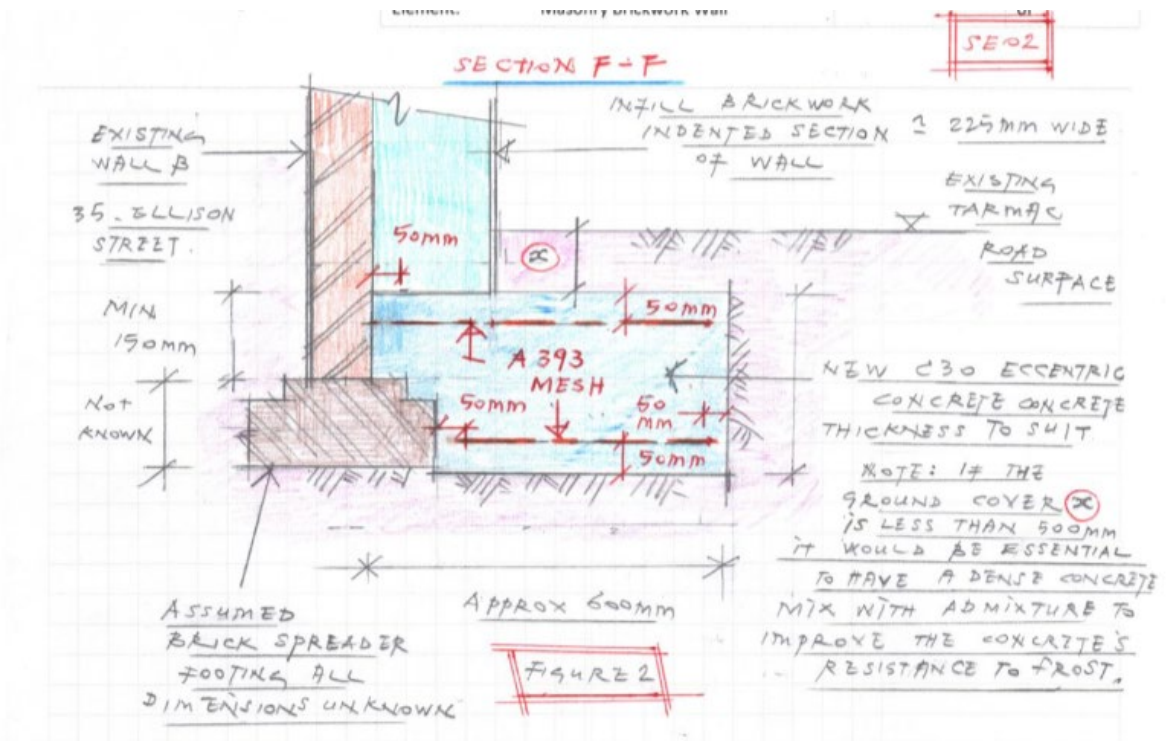
Scope of Works: Restoration/Strengthening of Wall A, Wall B & Wall C  
Sequence of Works

1. Thoroughly check and remove all loose cement mortars and brickwork etc. Repoint the eroded bedjoints and replace any damaged bricks with matching materials. As a guide on good workmanship on repointing bedjoints, it is recommended that the existing loose mortars are carefully raked out to a minimum of 40mm deep and repoint with freshly mixed cement mortar. If the brickwork are found to be loose during raking out of the mortar, it is then essential to completely rebuild the brickwork to restore full integrity.
2. Provision of new "transition brickwork construction" – Refer to SE01 Figure 1 & SE04 Figure 5 for details.
3. Provision of new concrete footing – Refer to SE02 Figure 2 for details. The foundations trench is to be hand excavated only and do not undermine the existing footings. Allow the concrete to cure for 7 days prior to the next stage of the works.
4. Provision of new masonry brickwork wall – Refer to SE02, Figure 3, SE03 Figure 4 for details. Once the Restoration/Strengthening works for Wall B & wall C have been completed, reuse the existing coping stones (if they are still in satisfactory condition) or otherwise, provide new coping stones (type to be approved by DMBC planning authority) to offer protection against water penetration into the wall (coping stones on top of freestanding masonry walls are not structural elements).

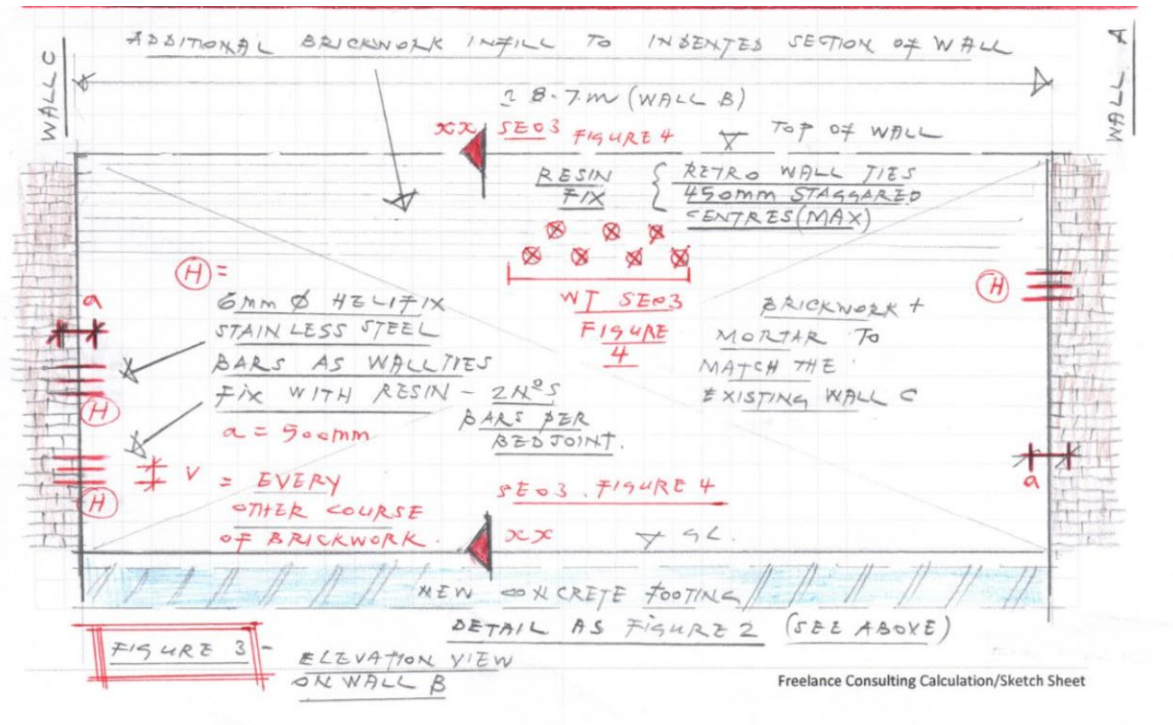


Freelance Consulting/Calculations/Sketch Sheet

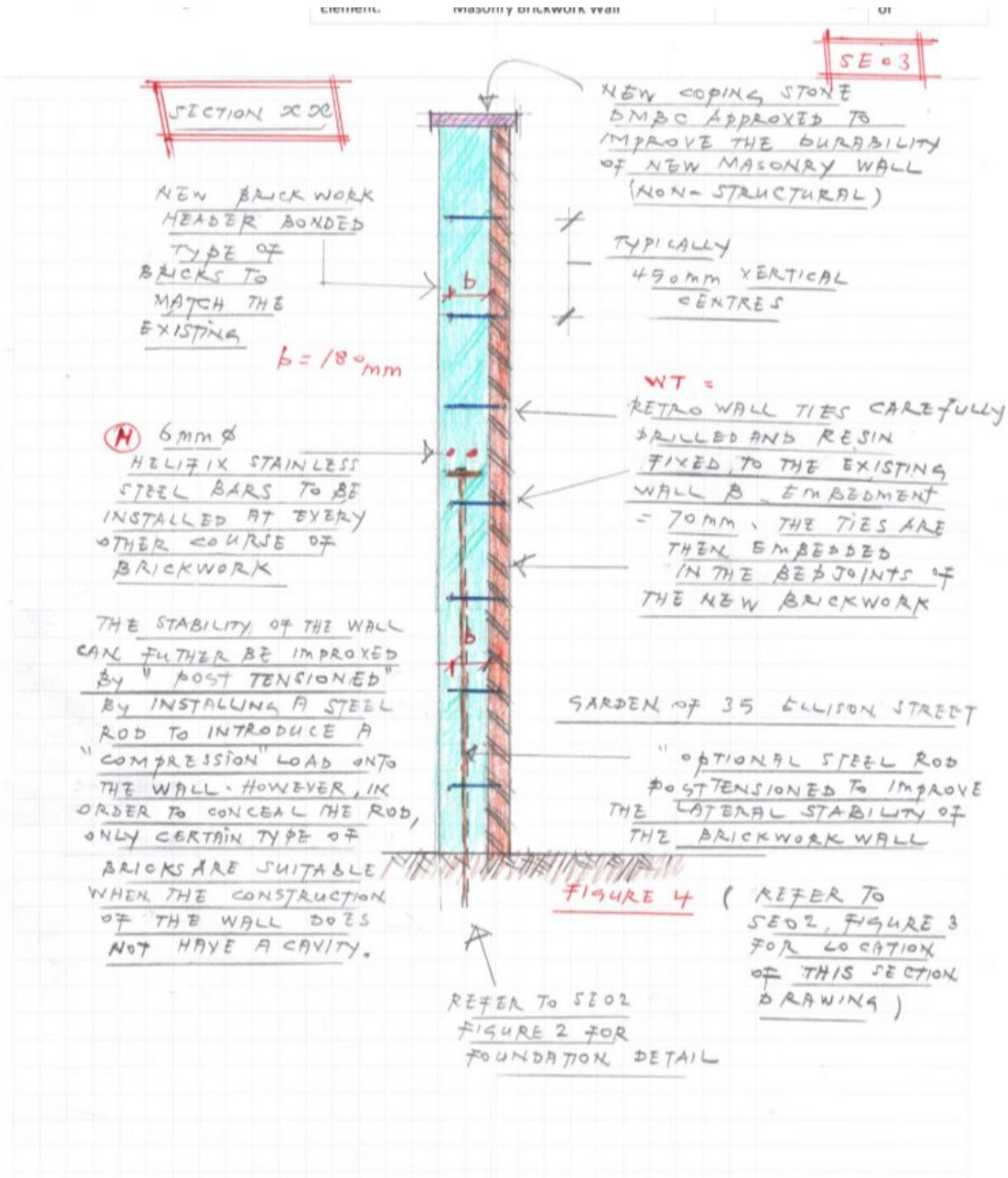
Appendix 5 - Figure 2 - SE02



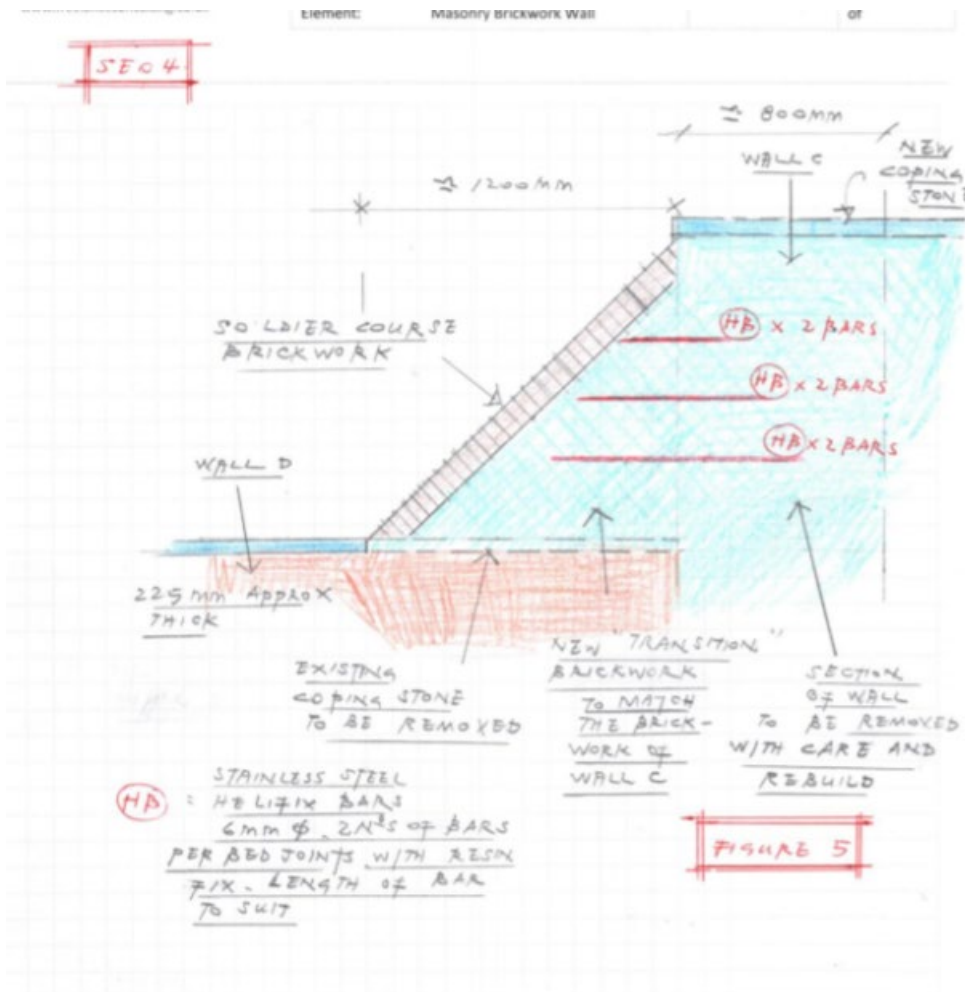
Appendix 6 - Figure 3 - SE03



# Appendix 7 - Figure 4 - SE03



# Appendix 8 - Figure 5 - SE04





### 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.

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

#### RISKS AND ASSUMPTIONS

8. N/A

## **LEGAL IMPLICATIONS [Officer Initials SC Date 18/05/2022]**

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 [Officer Initials BC Date 18/05/2022]**

10. There are no direct financial implications as a result of the recommendation of this report, however Financial Management should be consulted should financial implications arise as a result of an individual appeal.

## **HUMAN RESOURCES IMPLICATIONS [Officer Initials CR Date 18/05/2022]**

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

## **TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 18/05/2022]**

12. There are no technology implications arising from the report

## **HEALTH IMPLICATIONS [Officer Initials RS Date 18/05/2022]**

13. It is considered that there are no direct health implications although health should be considered on all decisions.

## **EQUALITY IMPLICATIONS [Officer Initials JB Date 18/05/2022]**

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

## **CONSULTATION**

15. N/A

## **BACKGROUND PAPERS**

16. N/A



## CONCLUSIONS

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

Application No.	Application Description & Location	Appeal Decision	Ward	Decision Type	Committee Overturn
20/02621/FUL	Change of use from nursery and 3-bedroom apartment to five 1-bedroom apartments at 14 Swan Street, Bawtry, Doncaster, DN10 6JQ	Appeal Dismissed 16/05/2022	Rossington And Bawtry	Delegated	No
21/02558/FUL	Erection of 1.9m high close boarded timber fence (Retrospective) at 112 Markham Avenue, Carcroft, Doncaster, DN6 8DZ	Appeal Dismissed 29/04/2022	Adwick Le Street And Carcroft	Delegated	No
20/00433/M	Appeal against enforcement action for alleged unauthorised installation of pump under grounds (a, c & f) at 6 Shires Close, Sprotbrough, Doncaster, DN5 7RG	ENF- Appeal Dismissed, ENF Notice Upheld 16/05/2022	Sprotbrough		No
21/03324/ADV	Installation of single illuminated 48-sheet digital advertisement display at Land At York Road, Doncaster, DN5 9AY,	Appeal Dismissed 29/04/2022	Bentley	Delegated	No
21/02309/FUL	Installation of wood burning stove and flue to outbuilding (retrospective) at Aberdeen Bungalow, Drake Head Lane, Conisbrough, Doncaster	Appeal Dismissed 12/05/2022	Conisbrough	Committee	Yes
21/00192/M	Appeal against enforcement notice at Aberdeen Bungalow, Drake Head Lane, Conisbrough, Doncaster	ENF- Appeal Dismissed, ENF Notice Upheld 12/05/2022	Conisbrough		No

## REPORT AUTHOR & CONTRIBUTORS

Mrs Jane Bailey  
01302 734603

TSI Officer  
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**Dan Swaine**  
**Director of Economy and Environment**

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# Appeal Decision

Hearing held on 22 March 2022

Site visit made on 22 March 2022

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 May 2022**

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**Appeal Ref: APP/F4410/W/21/3273723**

**14 Swan Street, Bawtry, Doncaster DN10 6JQ**

- 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 J Cooper, Swan Street Bawtry Ltd, against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref: 20/02621/FUL, dated 22 September 2020, was refused by notice dated 26 March 2021.
  - The development proposed is Alterations to ground floor and change of use to form 2No. One Bedroom Apartments.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Following the determination of the application and during the course of the appeal, Doncaster Council adopted the Doncaster Local Plan 2015-2035 (the DLP) on 23 September 2021. This replaced the Doncaster Council Core Strategy 2011-2028 (adopted May 2012) and the Doncaster Unitary Development Plan (adopted July 1998). In addition, a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. This replaced the 2019 version. My decision is made in the context of the relevant policies of the DLP and the revised Framework. The main parties have had the opportunity to comment on these changes in relation to the appeal. I am satisfied that their interests have not been prejudiced by this approach.
3. The description of development proposed set out in the heading above is taken from the application form. However, in the Council's decision notice and the appellant's appeal form, it is stated as 'Change of use from nursery and 3-bedroom apartment to five 1-bedroom apartments.' This is a more accurate description of the development proposed and, as agreed at the Hearing, I have determined the appeal on this basis.
4. No 14 Swan Street (No 14) is a Grade II listed building which is located within the Bawtry Conservation Area (the BCA). The Council raised no concerns in relation to the effects of the proposed development on the special interest and significance of these designated heritage assets. Nonetheless, the statutory duties set out in sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to have special regard to the desirability of preserving the listed building and its setting; and pay special attention to the desirability of preserving or enhancing the character or

appearance of the conservation area. These matters were discussed at the Hearing and considered on the site visit and I have concluded that they should not be raised to a main issue. I have therefore addressed them under 'Other Matters' below.

5. The application which is the subject of the appeal was accompanied by an associated application for listed building consent<sup>1</sup>. The Council concluded that the proposed works were deemed acceptable. Nevertheless, given that the proposed change of use was deemed unacceptable, the application was refused on the basis that there was no justification to undertake the proposed works. In addition, prior to the Hearing, the Council confirmed that listed building consent has been granted for works 'to modernise the existing three-bedroom apartment'<sup>2</sup>. For the avoidance of doubt, I have determined the appeal solely in relation to the proposed change of use to five 1-bedroom apartments.
6. Whilst the appellant has commented on the effects of the proposed development on highway safety, the Council has confirmed it has no concerns in this regard. I have therefore focused my considerations of the appeal on its effects in relation to parking and refuse collection.

### **Main Issue**

7. The main issue is whether the proposed development would provide suitable arrangements for parking and refuse collection.

### **Reasons**

#### *Parking*

8. Swan Street is located within the centre of Bawtry, a historic market town which offers a range of services and facilities and has good transportation links to the rest of the borough and beyond. The street is a fairly narrow one-way route with footpaths on both sides. On the southern side of the street there are some on-street parking bays, which do not require a payment and are not time restricted, interspersed with double yellow lines. On the northern side, double-yellow lines run the length of the street.
9. The surrounding area is characterised by a mix of commercial and residential uses. However, the uses of buildings along Swan Street itself are predominantly commercial, including the adjacent public house, The White Hart. Free parking bays which are not time restricted are also located on Church Street nearby. Centrally within the town, Market Hill car park offers pay and display parking between 08.00-22.00hrs and there are time restricted parking bays along one side of the High Street.
10. The appeal site is positioned at the eastern end of Swan Street near to its junction with Church Street. There is vehicular and pedestrian access into the site from Swan Street into a paved courtyard area, with an existing detached outbuilding and amenity space at the back of the site.
11. The proposed development comprises the change of use of the building from a nursery and apartment to five 1-bed apartments, with two apartments on the

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<sup>1</sup> Decision Notice and Delegated Report – Application Ref: 20/02622/LBC. Internal alterations in connection with the conversion of 14 Swan Street into five 1-bedroom apartments. Refused 26 March 2021.

<sup>2</sup> Decision Notice and Delegated Report – Application Ref: 21/03321/LBC. Internal alterations at first and second floor levels in association with existing three bed dwelling. Granted 17 February 2022.

ground and first floors and a single apartment on the second floor. Private amenity space would be provided to the side and rear of the building. The existing detached outbuilding would provide space for bin storage and cycle storage for five cycles. One off-street parking space with an electric vehicle charging point would be incorporated within the site.

12. The parties disagree as to the current level and nature of parking along Swan Street and nearby streets and thus the area's capacity to absorb any additional parking demand. Evidence has been submitted by both parties which is asserted to support their viewpoints<sup>3</sup> and opposing opinions were proffered by the main parties and interested parties at the Hearing. Surveys need to be thorough to provide reliable results. There are deficiencies and flaws in both of the parties' assessments, such as the date and/or time they were taken, and I am not convinced that either of them are sufficiently robust to provide an accurate insight into the existing parking demand within the area.
13. Of greater credence is that the problems of traffic, congestion and parking within the town centre are highlighted as key concerns in the Bawtry Neighbourhood Development Plan 2019-2032, adopted 2019 (the BNP) and are referenced in the BCA Appraisal 2008<sup>4</sup>. Moreover, the existence of these issues within the town centre was largely supported by my observations on site.
14. Consequently, whilst I acknowledge the appellant's views, having regard to the above, I am satisfied that Swan Street and the immediately surrounding area is already under a degree of parking stress and is close to its practical capacity. This limits the ability of the street and immediate locale to absorb any additional parking demand without resulting in a level of harm to the functioning of the highway and the character of the area.
15. Part A, criterion 4 of Policy 13 of the DLP requires that appropriate levels of parking provision are made in accordance with the standards contained within Appendix 6. The policy goes on to state that a departure from these standards may be justified on a case by case basis, for example reduced parking levels for Town Centre residential developments where accessibility to public transport is more prevalent. Developments should also include provision for electric vehicle charging points, with fast charging infrastructure provided for use by short stay users where appropriate.
16. Appendix 6 advises that minimum parking standards have been set for residential developments in order to overcome issues associated with low parking provision. In determining the right levels of parking consideration will be given to the anticipated demand from the type of housing proposed, the likely occupiers, the design of the public realm and highway, the proposed parking design solutions, and any local restrictions.
17. In addition, Part B, criterion 6 of Policy 44 of the DLP advises that housing proposals will be supported where there is sufficient convenient, safe and secure allocated and visitor car parking space designed so as not to dominate the appearance of the residential street-scene or impact negatively on the function or character of new and existing streets.

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<sup>3</sup> Appellant: Paragon Highways Technical Note Dec 2020- Abacus Surveys - 9 December 2020 at 18.30hrs. Council: historic aerial images; Google Streetview May 2018; and photos taken between July and Dec 2021.

<sup>4</sup> Bawtry Conservation Area Appraisal, 2008. Pages 103 and 104 and Appendices.

18. Under the parking standards set out in Appendix 6, the proposed development would be required to provide a minimum of 8 parking spaces, i.e. 1.5 spaces per each apartment. As proposed, the development would provide only 1 space, albeit off-street and with an electric vehicle charging point. On this basis, the proposed development would fall notably short of the required level of associated parking provision, contrary to Policy 13.
19. I am mindful that Policy 13 and Appendix 6 allows for a departure from these standards and that the BNP does not contain any specific policy in relation to parking levels for residential development in the town centre. In this respect, I note that the Council would 'likely be willing to accept a reduced quantum of development which still falls short of the standards, but to a lesser extent.' However, that is not what is before me as part of this appeal. Therefore, in assessing the proposed scheme on its own merits, I have had regard to the factors which Appendix 6 states should be considered in determining the right levels of parking.
20. I recognise the site's accessible town centre location. However, although Bawtry is able to offer a wide range of goods and services, any future occupants of the proposed apartments would have to travel outside of the town to go to a large supermarket or reasonably sized leisure/entertainment facility, where the use of a bus or cycle would not necessarily be a realistic alternative to the use of a car.
21. I acknowledge the appellant's comments concerning the target market for the proposed development and the lack of low-priced housing in the area along with the local demand for 1-bedroom apartments. Nevertheless, no corroborative evidence has been provided on any of these matters. Consequently, there is no guarantee that the target market for the apartments would be realised.
22. I appreciate that the town is generally well connected to national transport networks. However, bus is the only form of public transport available within the town and whilst the service is relatively regular during the day, after 19.00 it is noticeably reduced. Additionally, although the site would have space for five cycles and I note that the appellant would be willing to increase this, I am not convinced that cycles would be a practical or preferred alternative for travel in all instances.
23. Due to the number of unknowns and variables, the additional demand for parking that would be generated by the proposed development, along with its consequent effects, are not readily quantifiable or qualifiable. As discussed at the Hearing, any assessment in these regards is not scientific and any determination is finely balanced.
24. Taking all of the above into account, fundamentally, I am not persuaded that the proposed development would be, as asserted by the appellant, car-free. Rather, I consider it highly likely that some or all of the future occupants would use a private vehicle. The nature of the parking demand generated by the residential units may be different to that of the existing commercial uses on Swan Street. However, the quantum of apartments proposed and the substantial deficiency in associated parking provision would, in all probability, result in an adverse intensification of the existing parking stress and congestion issues in the area. In turn, this would have a negative and harmful effect on the functionality of the development and the highway and undermine the

character of the area. The proposal's discord and lack of integration with its immediate parking context would be readily discernible by future occupants of the apartments, local businesses and local residents.

25. In coming to my decision, I have also had regard to the previous uses of the appeal property, which the appellant contends would have generated the same, if not greater, demand for car parking within the area than the proposed apartments.
26. The planning history for the property confirms that its use as a guest house was granted in 1985 and its use as a nursery was granted in 1995<sup>5</sup>. As such, the previous uses were assessed and determined within a wholly different policy context and any criticism regarding a lack or shortfall of any associated parking provision based on current standards is not wholly justified.
27. Little information has been provided as to the use of the building as a guest house in terms of number and size of rooms, which would influence the level of parking demand generated by this use and its effects. Notwithstanding this, given the seasonal and temporary nature of its occupation and the likelihood that guests would be more inclined to use a car park if a space nearby was not available, the use cannot be readily compared to permanent residential apartments.
28. I acknowledge that the nursery and apartment combined would have likely resulted in a moderate level of traffic and parking throughout the working day, which was verified by an interested party at the Hearing. Nevertheless, it is still the case that, aside from staff, any parking would have been temporary for drop-offs and pick-ups and so creating a different form of effect on the highway and character of the area.
29. I am not persuaded that either of the previous uses generated a significantly greater demand for parking and thus were more harmful than the proposal before me. Even if I considered this to be the case, whilst the most recent use as a nursery and apartment is still extant, the appeal building has been vacant for a number of years and there is nothing in the written or oral submissions which indicate that the reinstatement of this use is a realistic or probable prospect.
30. All of these considerations do not justify the acceptance of the proposed development and severely limit the weight that I can attach to them in favour of the appeal.
31. In my determination I have also given consideration to the alternative options of car park spaces advanced by the appellant. The offer of 5no parking permits within the adjacent car park of The White Hart public house was confirmed at the Hearing. This option would provide sufficient convenient, safe and secure allocated and visitor car parking space to the proposed development in line with Policy 44 of the DLP and mitigate the adverse effects of the proposal.
32. Nevertheless, as these spaces are not within the ownership and/or control of the appellant and are outside of the redline boundary of the application, any agreement would only be informal and could not be controlled and/or enforced. As such, this option attracts little weight.

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<sup>5</sup> Statement of Common Ground.

33. A second option is 5no parking spaces within the car park to Bawtry Hall<sup>6</sup> which is within the ownership and control of the appellant. The car park is located approximately 5 minutes' walk to the west of the appeal site along a fairly flat and adequately lit route. This option would provide sufficient, safe and secure car parking. However, I am not convinced that the spaces would be sufficiently convenient for them to be used by occupants of the apartments all of the time. The use of the Hall's car park instead of Swan Street could not be enforced and, even though it is only a relatively short distance away, human nature would likely mean that occupants would try to park on Swan Street, particularly if unloading shopping or luggage, ultimately resulting in harm as outlined above.
34. Drawing all of the above together, I conclude that the proposed development would not provide suitable arrangements for parking. As such, it would conflict with Policies 13 (Part A, criterion 4); and 44 (Part B, criterion 6) of the DLP referred to above. It would also not comply with Policy 41 (Part A, criteria 3 and 4) of the DLP in so far as it seeks developments to respond positively to their context and integrate visually and functionally with the immediate and surrounding area.

#### *Refuse collection*

35. Part B, criterion 10 of Policy 44 of the DLP sets out that housing proposals will be supported where satisfactory arrangements are made for the storage and collection of refuse, recyclable materials and garden waste.
36. The proposal includes the provision of a 1100 litre Eurobin which would be located in the existing outbuilding at the rear of the appeal site<sup>7</sup>. Collection of the refuse would operate on a commercial basis, with the Eurobin being moved towards the site entrance onto Swan Street on collection days. This arrangement would minimise any disruption to the use of the adjacent footpath and highway and thus any inconvenience to pedestrians, cyclists and drivers. In doing so it would adequately mitigate any potential harm to the function or character of the street arising from the collection of refuse from the property. On this basis, I consider that it would be satisfactory.
37. I acknowledge that this arrangement would be reliant on an agreement between the appellant and a private contractor. However, I have no reason to dispute the appellant's intentions in this regard.
38. Even if it were the case that the occupant of each apartment possessed their own 2no 240-litre bins, any resultant disruption and inconvenience to pedestrians and other highway users from their weekly placement and collection would be limited to part of one day during the week. Moreover, the footpath on the opposite side of Swan Street would provide an alternative route for pedestrians during that time. As such, I consider that this arrangement would also not be materially harmful to the functionality of the development and the highway and/or the character of the area.
39. Accordingly, I find that the proposed development would provide suitable arrangements for refuse collection. As such, it would comply with Policy 44 (Part B, criterion 10) of the DLP referred to above.

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<sup>6</sup> Para 5.1.3, 14 Swan Street, Bawtry. Rebuttal Document January 2022 Project No. 1910.

<sup>7</sup> Illustrated on Drawing No: 020/031/3SPLP/B.



## Other Matters

40. No 14 is a Grade II listed building which dates from the mid-19th century. It is a three storey, three bay structure, with a two storey wing at the rear, and is constructed of brick with a tiled roof. The special interest and significance of No 14 is mainly derived from its historic and architectural interests. The building's age, traditional construction and materials, surviving historic fabric, and polite architectural form and design, all make important contributions in these regards. Special interest and significance also stem, in part, from the building's group value with other listed buildings nearby.
41. No 14 is located within the BCA which encapsulates the commercial and historic core of Bawtry. The special interest and significance of the BCA are largely derived from the preservation of the town's historic layout and street pattern along with the variety and architectural richness of its historic buildings, which denote its evolution. By virtue of its historic and architectural merit, No 14 adds to Bawtry's historic and aesthetic charm. In doing so it positively contributes to the character and appearance of the BCA and thereby to its significance as a designated heritage asset.
42. From the written and oral evidence along with my observations on site, I consider that the proposed development would largely respect the property's historic plan form and surviving internal features of interest. In doing so, it would preserve the listed building and its setting and, therefore, would not harm its special interest and significance.
43. As outlined above, on the balance of probabilities, the proposed development would intensify the existing parking and congestion issues within the immediate surroundings of the appeal site. This would detrimentally affect the way the apartments and the adjacent highway function as well as eroding the character of the immediately surrounding area. The impact of cars and traffic (including parking) are identified within the BCA Appraisal as contributing to the vulnerability of the BCA's special interest<sup>8</sup>. Nonetheless, given the localised nature of the identified harmful effects, I consider that the character and appearance of the BCA as a whole would be preserved. Consequently, its special interest and significance as a designated heritage asset would not be harmed.
44. The appellant has drawn my attention to a number of other residential developments within the locale which were granted planning permission despite a lack of, or identified shortfall in, associated parking provision.
45. I note the reasoning and conclusions of the Council in relation to Application Refs: 07/02303/COU and 13/00977/FUL<sup>9</sup>. However, notably, these developments were granted prior to the adoption of Doncaster Council Development Guidance and Requirements: Supplementary Planning Document, 2015 (the SPD), the BNP and the DLP, all of which include reference to parking within the borough or Bawtry and, in the case of the SPD and the DLP, set out specific parking provision requirements. The formal adoption of these

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<sup>8</sup> Bawtry Conservation Area Appraisal, 2008. Pages 103 and 104.

<sup>9</sup> Application Ref: 07/02303/COU, Land to rear of 29-31 Market Place, High Street, Bawtry – Conversion of existing derelict grainstore to 2 No. One bedroom apartments and erection of glazed link extension to new two storey building containing 4 No. one bedroom apartments on approx. 0.02 ha of land. Granted 11 September 2007; and Application Ref: 13/00977/FUL, Car Park To Cooper & Griffin 52 High Street Bawtry – Erection of 4 shops (Class A1 and A3 use) and 9 apartments with car parking to the rear on approx 0.18ha. Granted 2 August 2013.

documents represent material changes in the local policy context within which development within the borough is assessed and determined. As such, direct comparisons cannot be drawn between these permissions and the proposal before me and they attract little weight in favour of the appeal.

46. Application Refs: 20/01362/FUL and 20/02812/FUL<sup>10</sup> are more recent, with the latter being granted after the adoption of the DLP. I acknowledge the broad similarities of these developments with the appeal before me in terms of their local policy context, location, form of development and shortfall in the level of associated parking provision. Nevertheless, the number of units proposed in the permitted schemes and the relative deficiency in associated parking provision are less than those for No 14. As such, any potential harmful effects on the developments, the adjacent highway and the area are likely to be less. On this basis, these developments are not wholly comparable to the proposal before me and do not justify allowing the appeal.
47. Reference is also made in the appellant's Rebuttal Document to an extension to a dental practice on Swan Street, which was recently granted planning permission by the Council. This was discussed briefly at the Hearing and the practice was pointed out on the site visit. No details of the permission have been submitted to allow a meaningful comparison. In any event, whilst I acknowledge that this development may lead to an increase in the demand for parking in the area, it would be of a different nature in terms of time of day and length of time parked to that associated with a residential development. This limits its weight in support of the appeal.
48. None of the applications referenced by the appellant alter my conclusion on the main issue. Indeed, whilst I am aware that the proposal before me was refused planning permission prior to the grant of Application Ref: 20/02812/FUL, I am very mindful of the potential for each development approved to be incrementally adding to the parking stress and congestion within the area. This compounds my concerns about the proposed development.
49. The appellant highlights the lack of objections to the proposed development from local residents and businesses as well as the receipt of an objection from Bawtry Town Council on the last day of the application's determination. Representations by Bawtry Town Council and Councillor Blake, a democratically elected representative of the local community, were made within the procedural timescales. Their objections to the proposal were reiterated at the Hearing. As such, they are required to be taken into account. In any case, a lack of objection does not attest to a lack of harm.
50. I note the appellant's remarks about the Council's inconsistent comments and approach in the determination of the application which is the subject of the appeal. However, of themselves, these matters are not for my consideration in the context of an appeal under section 78 of the Act.

### **Planning Balance and Conclusion**

51. Subject to the grant of an associated listed building consent for the proposed works, which the Council has indicated are acceptable in heritage terms, the

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<sup>10</sup> Application Ref: 20/01362/FUL, 31-33 Church Street, Bawtry – Conversion of office to 2 dwellings. Granted 9 March 2021; and Application Ref: 20/02812/FUL, 2 Old Swan Court, High Street, Bawtry – Single storey extension to rear, new entrance facing high street, new shop front to Swan Street and minor external alterations to facade to create self-contained office, 2no apartments and storage for retail unit. Granted 3 December 2021.

proposed development would provide five additional residential units in an accessible location that would contribute to the overall supply and mix of residential accommodation in the locale. Economic, social and environmental benefits would flow from the refurbishment and reuse of a vacant listed building and from future occupiers supporting local services and facilities. These benefits are tempered by the fairly modest amount of development that is proposed but, nevertheless, are positive and carry moderate weight in favour of the appeal.

52. The proposed development would provide suitable arrangements for refuse collection. No objections were raised in relation to the principle of residential use, heritage matters, living conditions of neighbours or future occupiers, land contamination, flooding or drainage. I also note the support for the proposal by a local business person and resident. Nonetheless, these matters weigh neutrally in the planning balance.
53. Conversely, the proposed development would not provide suitable arrangements for parking. Whilst evaluating the effects of this deficiency cannot be scientific, it is highly likely that it would result in an intensification of existing parking and congestion issues within the immediate surroundings of the appeal site. This in turn, would adversely affect the way the proposed development and the adjacent highway function and weaken the positive characteristics of the area. As a result, the proposal would conflict with Policies 13, 41 and 44 of the DLP. This attracts substantial weight against the appeal.
54. I am mindful of the key role played by the delivery of housing in achieving sustainable development and recognise the Government's objectives of boosting the housing supply. I also note the Framework's support for housing and widening the choice of high quality homes; the effective and efficient use of land; and putting heritage assets to viable uses consistent with their conservation.
55. However, the Framework is clear in stating that planning decisions should ensure that developments will function well and add to the overall quality of the area; and that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character. Additionally, no substantive evidence has been presented which confirms that the proposed development is the only way by which the long term conservation of the listed building could be secured.
56. I also note that the Council is able to demonstrate a deliverable housing land supply well in excess of the five-year requirement and has delivered 232% of the total number of homes required in the 2020 Housing Delivery Test.
57. Whilst there are considerations that weigh in favour of the proposed development, in my judgement, they are not sufficient to outweigh the harm I have found. It would therefore conflict with the development plan when taken as a whole and there are no other material considerations, including the Framework, that outweigh this conflict.

*F Cullen*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr J Cooper	Appellant, Swan Street Bawtry Ltd
Mr M Fielding	Appellant's Business Partner, Swan Street Bawtry Ltd
Mr R Lee	Planning Consultant, Roger Lee Planning Ltd
Mr I Barraclough	Architect

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr J George	Senior Planning Officer
Mr S Shannon	Highways Officer
Mr M Thomas	Conservation Officer
Mr D Richards	Principal Planning Officer (Observing)
Ms J Duffield	(Observing)

### **INTERESTED PARTIES:**

Ms R Blake	Ward Councillor
Ms A Harrison	Bawtry Town Council
Ms C Longworth	Local business person and resident

## **ADDITIONAL DOCUMENTS SUBMITTED PRIOR TO HEARING**

### **APPELLANT:**

1. 14 Swan Street, Bawtry – Rebuttal Document Jan 2022. Received 16 Feb 2022.
2. Details relating to grants of planning permission for 31-33 Church Street, Bawtry (Application Ref: 20/01362/FUL) and 2 Old Swan Court, High Street, Bawtry (Application Ref: 20/02812/FUL). Received 17 March 2022.

### **COUNCIL:**

1. Decision Notice and Delegated Report for Application Ref: 20/02622/LBC 14 Swan Street, Bawtry – Refused, 26 March 2021. (requested in Pre-Hearing Note).
2. Decision Notice and Delegated Report for Application Ref: 21/03321/LBC 14 Swan Street, Bawtry – Granted, 17 Feb 2022. (requested in Pre-Hearing Note).



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## Appeal Decision

Site visit made on 18 March 2022

by **R Jones BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

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**Appeal Ref: APP/F4410/W/21/3286916**

**112 Markham Avenue, Carcroft, Doncaster DN6 8DZ**

- 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 Hood against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 21/02558/FUL, dated 16 August 2021, was refused by notice dated 18 October 2021.
  - The development proposed is erection of a close boarded timber fence 1.9m tall.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The fence that is the subject of this appeal has already been constructed and the planning application was made retrospectively. I have dealt with the appeal on that basis.

### Main Issues

3. The main issues in this case are the effect of the development on the character and appearance of the street scene, and the effect on the safety of pedestrian and road users.

### Reasons

#### *Character and appearance*

4. No.112 Markham Avenue (No.112) is a two-storey house that forms one end of a short terrace, linked to its neighbour at No.114 Markham Avenue (No.114) by a garage. The 1.9m close boarded timber fence has been constructed along a low stone wall the full width of the frontage of No.112, and turns the corner extending along the party boundaries with neighbours at No.110 and No.114 Markham Avenue.
5. No.112 is located at a slight bend in Markham Avenue and because of this the fence appears very prominent particularly when travelling south to north on Markham Avenue, splitting the elevation of the attached garages of No.112 and No.114. By reason of its location on the bend and its attached garage, No.112 has a relatively wide frontage and by entirely enclosing the front garden and driveway at a height of 1.9m, the fence appears an unduly dominant and incongruous addition to the street scene.

6. I saw from my site visit that the boundary treatments in Markham Avenue and the wider residential area are varied, and include timber fences, brick and breezeblock walls. Whilst there are examples of varying heights of fences, I found that within the immediate street scene, fences to be lower than 1.9m and the frontages of houses to be typically open, or at least only semi enclosed. Consequently, I find the height and extent of the fencing on the boundaries of No.112 to cause significant harm to the character and appearance of the street scene.
7. The development therefore conflicts with Policies 41 and 44 of the Doncaster Local Plan 2015-2035 (September 2021) (LP) in so far as they require high quality design that contributes to local distinctiveness, responds positively to its context and has plot boundaries appropriate to the area.

### *Safety*

8. There is an existing dropped kerb providing access to the garage and frontage of No.112 and I saw on my site visit a vehicle parked parallel to the house. This access has been enclosed by closed boarded timber gates around 1.9m in height which fill the space between the piers of the existing low stone boundary wall.
9. Part B.1.1.31 of the *South Yorkshire Residential Design Guide 2011* (January 2011) states that '*visibility splays of 2.0 x 2.0 metres may be required where a private (3.3 metres) drive joins the back of the footway in the interests of pedestrian safety. These should be kept clear of obstructions over 900mm in height.*' The guidance however recognises that the design of visibility splays should take into account the frequency of vehicle movements, amount of pedestrian activity and width of the footway.
10. The construction of the gates means that they slightly lean over the footway causing a minor obstruction. However, once open, there would be a good degree of visibility in both directions for a vehicle accessing/egressing. Further, I found Markham Avenue a quiet residential area where I observed cars moving at low speed and where vehicles manoeuvring from driveways and within the road is expected, and extra care therein taken.
11. I note that the guidance in the Council's *Development Guidance and Requirements: Supplementary Planning Document (July 2015)* is that boundary treatment proposals should remain low, i.e. 0.8m-1.2m to meet the visibility requirements for vehicle access and driveways. The guidance is, however, just that and I also note that planning permission has previously been granted here for a 1.5m fence albeit, as I understand, of a different design.
12. For the reasons given, I find that the fence would not unduly put the safety of either pedestrians or road users at risk. Consequently, there would be no conflict with LP Policy 13 because the development would not result in an unacceptable impact on highway safety.

### **Other Matters**

13. I understand the concerns raised by the appellant in respect of security and the need for the family dog to be enclosed at the front of the house. I also acknowledge the endeavours that the appellant has made to find a solution that is acceptable to the Council. However, in this case, I do not find these other matters are sufficient to outweigh the significant harm that I have found

to the character and appearance of the street scene and the conflict with the development plan.

**Conclusions**

14. Notwithstanding my conclusion in respect of the safety of pedestrians and road users, I nonetheless find the fence to cause significant harm to the character and appearance of the street scene. Therefore, for the reasons given above, the appeal is dismissed.

*R Jones*

INSPECTOR

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## Appeal Decisions

Site visit made on 14 March 2022

by **Peter Willows BA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 16 May 2022**

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**Appeal A: APP/F4410/C/21/3287668**

**Appeal B: APP/F4410/C/21/3287669**

**6 Shires Close, Sprotbrough, Doncaster DN5 7RG**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
  - The appeals are made by Mr David Walton (Appeal A) and Mrs Amanda Walton (Appeal B) against an enforcement notice issued by Doncaster Metropolitan Borough Council.
  - The notice was issued on 28 October 2021.
  - The breach of planning control as alleged in the notice is without planning permission the installation of an air source heat pump to the front elevation of the property at first floor level, on a wall fronting the highway, on the land.
  - The requirements of the notice are:
    - (i) (a) Remove the air source heat pump from the property on the Land or (b) relocate the air source heat pump to a position which complies with the provisions of Schedule 2, Part 14, Class G of the Town and Country Planning (General Permitted Development) Order 2015 (as amended);
    - (ii) Following compliance with step (i) (a) above permanently remove the resultant materials from the Land.
  - The period for compliance with the requirements is 1 month
  - Appeal A is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
  - Appeal B is proceeding on the grounds set out in section 174(2)(c) and (f) only.
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### Decision

1. It is directed that the enforcement notice be corrected by deleting the words 'the Town and Country Planning (General Permitted Development) Order 2015' from section 5 (What you are required to do) and replacing them with 'The Town and Country Planning (General Permitted Development) (England) Order 2015'.
2. Subject to that change, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Preliminary Matters

3. The word 'England' is missing from the reference to the General Permitted Development Order in the enforcement notice. However, the meaning is clear and this minor error can be corrected without causing injustice to either party.

4. The appellants have asked that I consider awarding some form of restitution to reflect the anxiety the case has caused them. I am also asked to 'instruct the Council to return the (deemed) planning application fee'. However, no formal application for costs has been made and, in any event, the matters raised would not be eligible for recompense through the planning costs regime.

### **Ground (c)**

#### *The basis of the dispute*

5. Ground (c) is concerned with whether or not the matter alleged in the notice amounts to a breach of planning control. In this case it is argued that the air source heat pump ('ASHP' or 'pump' for short) is development permitted by *The Town and Country Planning (General Permitted Development) (England) Order 2015* (as amended) (the GPDO). Part 14 of Schedule 2 of the GPDO permits certain renewable energy developments, and Class G of Part 14 permits the installation, alteration or replacement of a microgeneration air source heat pump on a dwellinghouse. This, however, is subject to certain limitations and conditions. In this case the dispute centres on the limitations set out at paragraphs G.2(g) and G.2(k).
6. Paragraph G.2(g) establishes that development is not permitted by Class G if the ASHP would be installed on a flat roof where it would be within 1 metre of the external edge of that roof.
7. Paragraph G.2(k) establishes that development is not permitted by Class G if:  
*in the case of land, other than land within a conservation area or which is a World Heritage Site<sup>1</sup>, the air source heat pump would be installed on a wall of a dwellinghouse or block of flats if—*
  - (i) *that wall fronts a highway; and*
  - (ii) *the air source heat pump would be installed on any part of that wall which is above the level of the ground floor storey.*
8. In this case, the ASHP has been installed above the ground floor storey. There is, however, disagreement as to whether it is installed on a wall and whether it fronts a highway.

#### *Assessment*

9. The appeal property is one of a handful of dwellings (I am told there are 9) on Shires Close, a cul-de-sac reached via Manor Gardens. The properties on the close are served by garages. The appeal property faces onto a part of the close which leads up to 2 garages and also provides access to the appeal property and its neighbours.
10. Is Shires Close a highway? It is plainly used by vehicles, since it provides access to the dwellings and garages. There is no definition of 'highway' specifically for Part 14 of Schedule 2 of the GPDO. However, Part 1, Paragraph I states that "*highway*" includes an unadopted street or a private way. I can see no reason to take a different view in relation to this proposal. Thus, while Shires Close is referred to as a private road, that does not mean that it is not a highway.

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<sup>1</sup> In this case the site is not in a conservation area or a World Heritage Site

11. Although Shires Close does not carry through traffic, that does not prevent it from being a highway; roads can serve a significant number of properties and have all the characteristics of a highway without being a through-route, such arrangements being common enough in residential estates. While this cul-de-sac serves only a handful of dwellings, they are sufficient in number to ensure that it does not have the enclosed, private feel of a courtyard. It also has the physical attributes of a highway, being tarmacked with a raised footway in places. Overall, as a matter of fact and degree, I regard Shires Close, including the area in front of the appeal property, as a highway, having regard to its size, function, features and appearance.
12. The house has a fairly modest garden and driveway to the front and is set back only a short distance from the highway (Shires Close) and footway. It faces directly towards the highway and the frontage is open in nature. Consequently, the elevation can be properly said to 'front' the highway.
13. The appellants argue that the front wall of the property does not include the upper storey of the front elevation, since the ground floor projects further forward. However, the relevant consideration is not whether it is the closest wall to the highway but whether or not the wall fronts the highway. The modest set back of the first floor is not sufficient to alter my view that the whole of the front elevation, ground and first floor, fronts the highway. I have considered those parts of the Government publication *Permitted development rights for householders Technical Guidance* to which I have been referred, but can see nothing to lead to a different view. Thus, in accordance with Paragraph G.2(k), and since it is installed above the level of the ground floor storey, the pump cannot be permitted development if it is installed on the front wall.
14. The appellants argue that the unit is not, in fact, installed on the wall, but rather is installed on the flat roof of the projecting ground floor element at the front of the building. However, there is insufficient evidence to support this claim. The Council advises that the pump was initially installed on the wall but that a steel frame was subsequently inserted between the unit and the roof below. It is not, however, clear whether or not the fixings attaching the unit to the wall were removed as part of that process and I am unable to determine from the information before me the extent to which the weight of the unit is borne by the roof rather than the wall. Moreover, the appellant advises that the unit is linked to the wall by rigid hydraulic pipes and cables, which are essential to its functionality. I conclude, on the balance of probability, that the unit is installed on the wall, resulting in conflict with G.2(k). The burden of proof falls on the appellants in an appeal on ground (c) and nothing submitted leads me to any contrary view.
15. The appellants say that the ASHP is more than 1m from the external edge of the roof, as required by Paragraph G.2 (g). The Council does not appear to accept that figure and I have not been provided with any details of the specific measurements that have been taken to support the appellants' assertion. But even if the appellants are right on that point, my finding of conflict with G.2(k) means it is not development permitted under Class G in any event.
16. For these reasons, the appeals on ground (c) fail.

## **Ground (a)**

### *Main Issue*

17. The main issue is the effect of the development on the character and appearance of the area.

### *Reasons*

18. The appeal property is a 2 storey house. Although there are commercial units nearby, the house clearly relates to the other dwellings within this small cul-de-sac. The ground floor of the property projects a little at the front, and this part of the building has a flat roof. The pump is located on the front wall above the projecting ground floor element. It is located between 2 first floor windows.
19. The pump is contained within a boxy casing. I do not have details of its construction but the casing appears to be metal and includes a grill at the front. The unit is coloured black and white. Cabling and metal brackets are attached to the unit. Overall it has a functional, rather industrial appearance, similar to an air-conditioning unit. It does not blend in with or complement the appearance of the house in any way. Rather, the casing contrasts starkly with the brickwork of the house. The bracketry and cable add to its unsympathetic, utilitarian appearance.
20. Of course, houses necessarily have functional items attached to them. Indeed, ASHPs are often permitted development. However, in this instance the pump has been located particularly prominently in the middle of the first floor of the front elevation. Consequently, in view of its size and appearance, and despite being set back in relation to the ground floor element of the front elevation, it has a profound, negative effect on the character and appearance of the house. Since the house is set only a modest distance back from the front boundary and has an open aspect, the pump unit is highly prominent and has a significant and harmful effect on the character and appearance of the area.
21. The visual harm arising from the unit brings it into conflict with Policy 41 of the Doncaster Local Plan 2015-2035, which is concerned with character and local distinctiveness, and with Policy 44, which seeks to secure high quality residential environments through good design. While Policy 58 is generally supportive of low carbon and renewable energy projects, that is subject to them having no unacceptable adverse effects on local amenity or the built environment, amongst other things. Consequently, that policy does not support this development, given the visual harm it causes and there is conflict with the development plan as a whole. There is conflict too with Paragraph 130 of the National Planning Policy Framework (the Framework), which seeks to ensure that developments are sympathetic to local character.
22. It is clear that relocating the unit to the ground floor is not an attractive option to the appellant. It is suggested that doing so would take it outside the curtilage of the building, impede access to the building and/or require additional external works.
23. Nevertheless, the appellant accepts that it would be possible to relocate the unit on the front wall of the ground floor element of the house, in compliance with the permitted development provisions. While it is argued that such a location would be more prominent, I do not have details of any specific alternative location to assist with that assessment. Nevertheless, in my

judgement, location at ground floor level is likely to be less prominent and less visually harmful than the current, first floor location. Even if additional pipework or ducting were needed, that is unlikely to be as intrusive as the bulky ASHP in its current, prominent location. While it may be that a ground floor location would result in a loss of garden space, the effect of this would be limited.

24. I appreciate that the Council has not raised concerns regarding the effect of the unit in terms of noise, but that does not alter the visual harm I have found.
25. I am told that the occupants have no alternative means of heating or obtaining hot water. However, I have no reason to suppose that the ASHP would not be replaced with an alternative source of heating if relocation did not prove to be feasible. Although the appellant says that gas is not available, the property must have an electricity supply and it is not credible to suggest that an ASHP is the only way of providing heating and hot water.
26. I have had regard to the personal circumstances of the occupiers of the property, as outlined in the grounds of appeal, which includes reference to characteristics which are 'protected characteristics' under section 149(7) of the Equality Act 2010. The Equality Act contains a 'Public Sector Equality Duty', which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. However, having considered the particular matters raised in this instance, I am not persuaded that they indicate a need to permit the development.
27. The appellant has raised concern about the Council's handling of the matter, but the Council's position is clearly stated and it is clear that it has had a dialogue with the appellants since the matter was first drawn to its attention. It appears to me that it has cooperated adequately with the appellants and I do not see that it was obliged to set out alternative locations for the unit at the property. Nor do I regard this as simply a trivial or technical breach, given the harm I have found. Overall, there is nothing about the Council's handling of the matter that would lead me to any different decision on the appeal.
28. I accept that there are environmental benefits associated with the ASHP and that emissions are reduced. However, the benefit arising from this single unit does not outweigh the harm I have found.

### *Conclusion*

29. I conclude that the benefits of the development do not outweigh the harm arising from it and the conflict with the development plan. Consequently, planning permission should not be granted and the appeal on ground (a) fails.

### **Ground (f)**

30. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. In this case, the notice requires the removal of the pump or its relocation in compliance with the relevant permitted development provisions. This is consistent with the purpose of remedying the breach of

planning control in accordance with s173(4)(a). Consequently, I do not regard the requirements as excessive.

31. That said, the enforcement procedure is intended to be remedial rather than punitive, and it is therefore important to consider whether any lesser steps could address the Council's concerns.
32. The appellants suggest screening the unit, possibly by extending the wooden handrail on the adjacent property across the front of the appeal property. However, while that would break up the impression of the ASHP, it would not fully screen it, and the wooden railings themselves would be a significant and prominent feature on the house. I do not have details of any other screening proposal, but it seems to me that anything sufficient to screen the unit would have a significant visual effect and would need careful consideration. On the information before me, it has not been demonstrated that screening could address my concerns. It may be that recolouring the unit could give it a more sympathetic appearance, but it would remain a bulky, utilitarian addition to a prominent part of the house, and thus would still be visually harmful, albeit to a reduced extent.
33. As I have explained in relation to the appeal on ground (a), I am not persuaded that the appellants' concerns regarding the feasibility of relocating the unit have been adequately demonstrated. Also for reasons explained in relation to ground (a), I am not persuaded that the requirements of the notice should be changed due to the occupiers' circumstances and the effect of the notice on them.
34. I conclude that the steps specified in the notice do not exceed what is necessary to remedy the breach of planning control. Nor would the lesser steps suggested by the appellant adequately address the harm arising from the development. Accordingly, the appeals on ground (f) fail.

### **Conclusion**

35. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended

*Peter Willows*

INSPECTOR



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# Appeal Decision

Site visit made on 18 March 2022

**by R Jones BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 April 2022**

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## **Appeal Ref: APP/F4410/Z/21/3289105**

### **Land at York Road, Doncaster DN5 9AY**

- 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 Alight Media against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 21/03324/ADV, dated 31 October 2021, was refused by notice dated 13 December 2021.
  - The development proposed is a new single illuminated 48-sheet digital advertisement display.
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## **Decision**

1. The appeal is dismissed.

## **Procedural Matter**

2. In their decision the Council have referenced paragraph 136 of the National Planning Policy Framework (the Framework) and Policy 49 of the Doncaster Local Plan 2015-2035 (September 2021) (LP). However, powers under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) to control advertisements may only be exercised in the interests of amenity and public safety. I have therefore taken the Framework and LP Policy 49 into account insofar as they are material, but they have not been decisive in my decision.

## **Main Issues**

3. The main issues are the effect of the proposed advertisement on the amenity of the area, and on public safety.

## **Reasons**

### *Amenity*

4. The appeal site comprises a small area of land on the north-east side of York Road, close to its junction with Grove Avenue, a residential road, and Newcomen Road. It adjoins a recently built two-storey building which accommodates a skincare clinic and residential apartments. York Road is a dual carriageway (A638) and a busy route between Doncaster and the A1(M).
5. The proposal is for a single-sided 48 sheet digital advertisement display that would be mounted on a single column above the boundary fencing of the neighbouring clinic. It would be set at an angle to York Road to face towards

south-east (Doncaster) bound traffic, and would display static images that would change every 10 seconds.

6. The proposed advertisement would be large in size, with the digital screen measuring 6m in width and 3m in height which, according to Section 4 of the consent to display an advertisement(s) application form, would be 2.5m from the ground, to its base. The proposed advertisement would be angled and set well forward of the building line of the adjoining skincare clinic and apartment building. This siting, in combination with its size and elevated position, means that the advertisement would be unduly prominent from York Road, for both road users and pedestrians, as you travel south-east and through the junction with Newcomen Road and Grove Avenue.
7. The guidance in the Planning Practice Guidance (PPG) is that, in assessing amenity, consideration should be given to the local characteristics of the neighbourhood. It further advises that, whilst a large poster-hoarding would be refused where it would dominate a group of listed buildings, it would be permitted in a commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.
8. I observed on site that the opposite side of York Road (to the south) is dominated by the Danum Retail Park with its associated fascia and totem signage. However, I found the north side of York Road to be more suburban and residential in character and the appeal site is at the edge of a stretch of woodland that extends for around 100m toward Lady Pitt's Bridge. The proposed advertisement would appear an incongruous addition against this woodland backdrop, reducing the role it plays in providing visual relief in the built form. Further, it would introduce a large scale commercial advertisement in the street scene on the north side of York Road, at odds with the local context, which is not predominantly commercial, and where there are no examples of similar advertisement displays.
9. I appreciate that the display would not exceed the maximum luminance recommended within the Institute of Lighting Professionals best practice guidance during dusk and darkness, and that the transition between images would be virtually instantaneous. However, the digital illumination would cause the advertisement to further stand out, drawing the eye and accentuating its visual prominence.
10. I acknowledge that because of its siting (at an angle to York Road), the proposed advertisement would only be viewed from one direction, by traffic travelling toward Doncaster, and that its location on the inside of a slight bend means that there is not a long line of sight. Further, it would not result in visual clutter, as suggested by the Council. However, for the reasons given, I nonetheless find that it would cause harm to the appearance and amenity of the local area, contrary to the Regulations and paragraph 136 of the Framework. It would also conflict with LP Policy 49 which requires advertisements to respect the character and appearance of the area.

#### *Public safety*

11. The PPG states that all advertisements are intended to attract attention, with those proposed at points where drivers need to take more care more likely to affect public safety. Furthermore, it advises that the main types of



advertisement which may cause danger to road users are those which are illuminated or which could be mistaken for, or confused with, traffic lights. Moreover, those which, because of their size or siting, would obstruct or confuse a road user's view, or reduce the clarity or effectiveness of a traffic sign or signal can also pose a risk to highway safety.

12. I observed that York Road is a 40mph road with multiple lanes and, close to the appeal site, it was heavily trafficked at the time of my site visit. The proposed advertisement would be located beyond the signalised junction with York Road, Grove Road and Newcomen Road only visible for road users travelling south-east, towards Doncaster. Newcomen Road is one of two points of access to the Danum Retail Park via signalised right and left hand filter lanes from York Road. Whilst a busy junction, the signalised arrangement is clear and straightforward with no opposing traffic movements. Further, there are no dedicated pedestrian crossings at this location. These are located around 120m further to the north-west on York Road.
13. The appellant has provided information from the local accident record for the most recently available five-year period drawing on data from Crashmap. This shows that there has only been one 'slight' incident in the immediate vicinity of the appeal site during this time. Although this incident involved a slight injury to a vehicle or pillion passenger, from the information available, it appears there was no impact or a collision between vehicles. This demonstrates that the highway network in the vicinity of the site is relatively free of incident.
14. Despite its size and illumination, the sets of traffic signals when approaching from the north-west will remain visible in front the advertisement display. Combined with the straightforward nature of the junction described above, the advertisement display would not present an additional distraction to motorists such that it would reduce drivers' ability to pay full attention, or to an extent that the likelihood of collisions would increase.
15. Illuminated signs, including those using LED technology, which are subject to frequent changes of the display, are identified in the PPG as a type of advertisement which may cause danger to road users. However, based on the site specific circumstances, it is my judgement that the change of the static advertisement images every 10 seconds would not be confusing or distracting to road users, so as to create a hazard.
16. For these reasons, I conclude that the proposed advertisement would not be detrimental to public safety. Consequently, it would not conflict with LP Policy 49 in so far as it would not interfere with highway safety or cause a safety hazard.

### **Other Matters**

17. I appreciate that digital technology may bring some environmental benefits, such as those asserted by the appellant, which include a reduction in waste compared to printed vinyl, remote management, servicing and maintenance, and the extended service life of LEDs. Whilst I have little evidence before me as to why the advertisement is patently needed by the appellant, I also acknowledge the contribution that advertising generally makes to the economic health of the country.

18. However, in this case, these matters would not outweigh the harm to amenity that I have identified above. Moreover, the Regulations require that I exercise my powers only with regard to amenity and public safety albeit these benefits may be proffered as other relevant factors.

**Conclusions**

19. For the reasons given above, I conclude that the display of the advertisement would be detrimental to the interests of the amenity of the area. This provides a clear justification for finding the proposal to be unacceptable and therefore the appeal should be dismissed.

*R Jones*

INSPECTOR



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## Appeal Decisions

Site visit made on 11 April 2022

**by J Whitfield BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 May 2022**

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### **Appeal A Ref: APP/F4410/C/22/3291829**

#### **Aberdeen Bungalow, Drake Head Lane, Conisbrough, Doncaster DN12 2AB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Paul Heath against an enforcement notice issued by Doncaster Metropolitan Borough Council.
- The enforcement notice was issued on 26 January 2022.
- The breach of planning control as alleged in the notice is, without planning permission, the installation of a flue to an outbuilding located in the position marked "A" on Plan B on the Land.
- The requirements of the notice are:
  1. Remove the flue located in the position marked "A" on Plan B; and
  2. Following compliance with step (i) above, to permanently remove the resultant materials from the Land.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of Decision:** The appeal is dismissed and the enforcement notice is upheld.

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### **Appeal B Ref: APP/F4410/D/22/3290747**

#### **Aberdeen Bungalow, Drake Head Lane, Conisbrough, Doncaster DN12 2AB**

- 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 Paul Heath against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 21/02309/FUL, dated 12 July 2021, was refused by notice dated 13 January 2022.
- The development proposed is installation of wood burning stove and flue to outbuilding.

**Summary of Decision:** The appeal is dismissed.

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### **Preliminary Matters**

1. Appeal A was originally made on grounds (d), (a), (f) and (g) of section 174(2) of the 1990 Act. However, the appellant has since withdrawn the appeal on ground (d). Appeal A therefore proceeds on grounds (a), (f) and (g) only.

## **Appeal A on ground (a) and Appeal B**

### *Main Issues*

2. The Council's reasons for issuing the notice and refusing planning permission are the same. The main issues for both appeals are therefore:
  - the effect of the development on the living conditions of neighbouring occupiers with particular regard to outlook; and,
  - the effect of the development on the character and appearance of the area.

### *Living Conditions*

3. The appeal relates to the construction of a flue an outbuilding upon the Land, adjacent to the rear garden of 1 Butterbusk and close to the rear garden of No 3.
4. The external finish of the flue gives it a shiny, metallic effect resulting in a high degree of reflectivity. This has the potential to cause sunlight to be harmfully reflected towards the gardens and rear windows of No 1 and No 3. Nevertheless, I accept that such harm can be mitigated through the imposition of a condition requiring the flue to be painted in a matt finish and retained as such throughout the lifetime of the development.
5. However, the flue extends to a height of around 4.7m and around 1m above the roof of the building. It is sited close to the rear gardens of both No 1 and No 3 such that it is clearly visible in the outlook from their rear windows and from within the rear gardens. Even if painted in a matt finish, the flue will still appear as an intrusive element of industrial character. As a result, I consider the flue will be an incongruous and obtrusive feature in the outlook of both properties.
6. I conclude, therefore, that the development will have a harmful effect on the living conditions of the occupiers of 1 and 3 Butterbusk with particular regard to outlook. Thus, the development fails to comply with Policy 44 of the Doncaster Local Plan 2015-2035 (2021) (the LP) which states that developments must protect existing amenity and not significantly impact on the living conditions of neighbours.

### *Character and Appearance*

7. The appeal relates to a large, single storey outbuilding located on the boundary of the Land adjacent to the rear gardens of 1 and 3 Butterbusk. The surrounding area is characterised by residential properties which are predominately single storey albeit there are some two-storey properties which front Doncaster Road. The roofscape in the area is generally characterised by dual pitched roofs. I nevertheless saw from my site visit that there is a wide range of chimneys, flues and aerials throughout the area.
8. The development concerns the provision of a flue the outbuilding to accommodate a wood burner within. I note that the flue appears somewhat industrial in appearance and has a height of around 4.7m.
9. Nevertheless, views of the flue from within the public realm are limited due to the presence of the properties on Butterbusk. As such, the flue is only visible

in slight views from Archers Way or in glimpses between the properties on Butterbusk. Moreover, given the prevalence of other roof paraphernalia within the immediate area, the flue does not appear out of context. Consequently, it does not appear unduly obtrusive or dominant within the street scene.

10. I conclude, therefore that the development does not have an unduly harmful effect on the character and appearance of the area. As such, it does not conflict with Policy 41 of the LP which requires development to assimilate into the built environment.

#### *Other Matters*

11. I note that the Council's officers recommended approval of the planning application in respect of Appeal B. However, the Council's committee resolved to refuse planning permission for the reasons set out in the decision notice. The committee was entitled to come to an alternative view to its officers and the fact that it did so, does not carry weight in favour of the appeal.
12. The appellant states that they have complied with every requirement set out by the Council and inspections were made on site and approved. I also note that the wood burner was installed by a professional company and is DEFRA approved. However, such matters do not carry sufficient weight to overcome the harm I have identified above.

#### *Conclusions – Appeal A*

13. Whilst I have found that the development will not result in harm to the character and appearance of the area, I have found there is harm to the living conditions of neighbouring residents. That is the prevailing consideration. Consequently, for the reasons given above, I conclude that Appeal A on ground (a) should not succeed.

#### *Conclusions – Appeal B*

14. Whilst I have found that the development will not result in harm to the character and appearance of the area, I have found there is harm to the living conditions of neighbouring residents. That is the prevailing consideration. For the reasons given above I conclude that Appeal B should be dismissed.

#### **Appeal A on ground (f)**

15. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach.
16. The notice does not state which of the two purposes it seeks to achieve. Nevertheless, the requirements are to remove the flue and resultant materials from the land. On that basis, it seems to me that the purpose of the notice is to remedy the breach of planning control by restoring the land to its condition before the breach took place. The purpose of the notice therefore falls under section 173(4)(a) of the 1990 Act.
17. I am satisfied, as a result, that the requirements to remove the flue and restore the land to its former condition do not go beyond what is necessary to remedy the breach of planning control. Whilst it is open to me to consider

obvious alternatives that would overcome the planning harm at less cost and disruption to the appellant, there are no such alternatives before me.

18. The appeal on ground (f) therefore fails.

### **Appeal A on ground (g)**

19. The appeals on ground (g) are that the time limit given for compliance with the notice is too short. The time period given for compliance is 1 month.

20. The appellant says additional time should be given for compliance since Appeal B relating to the refusal of planning permission is ongoing. However, the appellant has exercised his right of appeal under ground (a) in respect of Appeal A. Moreover, the notice is not brought into effect since a timely appeal has been made against it. Thus, there is no reason to add additional time for compliance to await the outcome of Appeal B, particularly since the two appeals have been linked such that the outcome of both appeals is determined at the same time.

21. The appellant suggests a period of 6 months would be more reasonable. However, no substantive reasoning for such a period has been put forward. It seems to me that the removal of the flue on the face of it would be a reasonably straightforward task and I see no reason, on the evidence before me, why it could not be achieved with the 1 month timescale required by the notice.

22. The appeal on ground (g) therefore fails.

### **Formal Decisions**

#### *Appeal A*

23. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

#### *Appeal B*

24. The appeal is dismissed.

*J Whitfield*

**INSPECTOR**



**Doncaster  
Council**

## **Doncaster Metropolitan Borough Council Planning Enforcement Quarterly Report March 2022**

### **Introduction**

This report provides Doncaster Metropolitan Borough Council's Planning Enforcement performance in the fourth quarter of 2021/22.

We would like to take this opportunity to welcome Luke Watson to the Planning Enforcement Team, undertaking a permanent position. Luke joined the team in October 2021 on a temporary basis, having successfully completed his Masters at Sheffield University in Urban & Regional Planning.

The Planning Enforcement Team now consists of 5.5 Enforcement Officers and despite previous Covid restrictions, the team has now returned to normal duties.

<b><u>Case Updates – First Quarter (1<sup>st</sup> January – 31<sup>st</sup> March 2022)</u></b>	
Total Cases Still Under Investigation as at end of March 2022.	439
Total Cases Recorded in the Third Quarter (1 <sup>st</sup> January – 31 <sup>st</sup> March 2022)	123
Total Cases Closed Down in the Third Quarter (1 <sup>st</sup> January – 31 <sup>st</sup> March 2022)	100

## Prosecution Cases

### 92 Lawn Avenue - Woodlands



Doncaster Council received a complaint regarding the unauthorised erection of a garage exceeding the height identified in the approved plans of 19/01394/FUL.

The garage was measured at 4.7metres in height, 1.2 metres higher than was approved under 19/01394/FUL. The height of the garage was judged to result in adverse amenity impacts of overshadowing and obstruction of natural sunlight into private amenity space.

The Council's attempts to work with the owner to reduce the height of the garage proved unsuccessful so a Breach of Condition Notice was served on 14<sup>th</sup> June 2021, which required the owner to reduce the height of the garage in line with the approved plans. Following expiry of the compliance period of the notice, the Planning Enforcement Team carried out a site inspection, which concluded that no remedial works had taken place to reduce the height of the garage to comply with the approved planning permission.

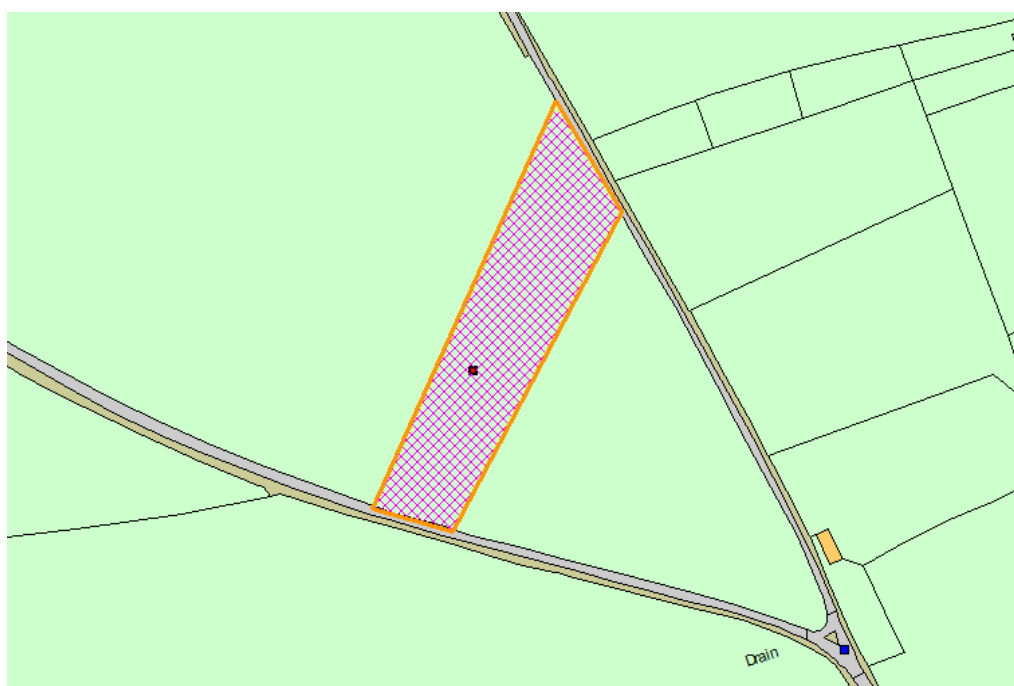
The Council therefore filed a prosecution case at the Magistrates' Court against the offender for failing to comply with the Breach of Condition Notice. The offender was fined £80 and had to make a £200 contribution to costs.

A new remedial date will be agreed and failure to comply will result in a second prosecution.



## Notices Served

### **Wilsic Lane/Peastack Lane – Tickhill.**



Following the Enforcement Notice served on the site on 28<sup>th</sup> October 2021, an Enforcement Appeal was submitted by the occupants, and accepted by the planning Inspectorate. The appeal is currently in progress and a date for the Public Inquiry from the Planning Inspectorate should be expected shortly.

### **28 Lodge Road Carcroft Doncaster**



As previously reported, an Enforcement Notice was served on 6<sup>th</sup> October 2021. The notice required the owners to cease the use of the buildings for the purposes of breeding, sale and kennelling of dogs and puppies. Including the demolition of the large dog pen by the 17<sup>th</sup> January 2022 and permanently remove the resultant materials from the land by 17<sup>th</sup> February 2022. The owner has failed to comply by the required deadline and a prosecution case is now pending.

## Home Farm Stockbridge Lane Owston



As previously reported, on the 28<sup>th</sup> October 2021 an Enforcement Notice was served on the property, which came into effect on the 8<sup>th</sup> December 2021, the appeal (APP/F4410/D/21/3281015) against it was dismissed on the 16<sup>th</sup> February 2022 and the owners had until the 22<sup>nd</sup> March to remove carport, unfortunately no remedial work has been done. The owner failed to comply by the required deadline and was granted a time extension until the 8<sup>th</sup> June 2022, failure to comply will result in prosecution.

## 105 Thorne Road – Wheatley – Doncaster





On the 3<sup>rd</sup> of September 2020, a complaint was received regarding an unauthorised installation of metal fencing and gates along the highway boundary without planning permission.

A Conservation Officer was consulted after a site visit was conducted. The metal gates and fencing were considered to be detrimental to the character and appearance of the Thorne Road Conservation Area. After multiple letters sent to the owner, no planning application had been submitted. The owner did respond by claiming that the fencing and gates had both been erected 4 years prior to receiving correspondence. Historical images on Google Street View show that the metal gate had been erected for over 4 years which makes it immune from enforcement action, however, the fencing was not seen to be erected from images in 2016, 2017 and 2018.

On the 14<sup>th</sup> of January 2022 an Enforcement Notice was served on the property, which came into effect on the 25<sup>th</sup> of February 2022. At present the owner has engaged a planning agent, with a view of submitting a “certificate of lawfulness”. Following the outcome of this submission, if the metal gate is not demonstrated to be lawful (through the passage of time), the Council will seek a prosecution for non-compliance.

## **2 Lambeth Road, Balby, DN4 8HT**



On 3<sup>rd</sup> August 2021, a complaint was received regarding an unauthorised installation of a 1.8 metre high gravel board fence, to side of the property without planning permission.

Following a site visit it was established that the first section of concrete gravel board fencing panels, which are situated adjacent to the highway boundary, was over 1 metre in height. Therefore it was unauthorised and required planning permission. An invalid planning application was submitted, with no attempt made by the applicant to submit further information to validate the request. The Council attempted to remedy the identified breaches of planning control, by working pro-actively with the landowner to reduce the height of the first section of fencing, to no more than 1 metre or to validate the planning application.

However, these requests proved unsuccessful and therefore an Enforcement Notice was served on 22<sup>nd</sup> March 2022, which will come into effect on the 3<sup>rd</sup> May 2022. The notice requires the owners to reduce the height of the section of concrete gravel board fencing panels and the concrete fence post, which are situated adjacent to the highway boundary on the land, to a height of no higher than 1 metre, by the 3<sup>rd</sup> June 2022.

### **7 Market Street, Highfields**



A complaint was received regarding the erection of a fence around the boundary of a property. Despite numerous attempts to rectify the matter, the owners have failed to reduce the height of the fence. An Enforcement Notice was served on the 19<sup>th</sup> January 2022, which came into effect on the 2<sup>nd</sup> March and they had until the 2<sup>nd</sup> April 2022 to comply. An extension for compliance has been granted for the 8<sup>th</sup> June 2022.

## 99 Meadowfield Rd, Barnby Dun



Doncaster Council received complaints regarding a front garden wall erected at the front of 99 Meadowfield Road, Barnby Dun.

It was identified that the original permission for the estate included an open plan condition. Which removes permitted development rights to erect walls, fences or other means of enclosure, on land between the walls of any dwellings fronting a highway and the highway boundary, unless agreed in writing by the Local Planning Authority. The owner submitted a retrospective application for the wall on 4th December 2020. The application was refused on the 24th February 2021, with the planning officer concluding that the wall causes harm to the open character of the area.

An appeal was lodged against the Council's decision to refuse permission for the wall. The Planning Inspectorate dismissed the appeal on the 29th September 2021, thereby advocating the removal of the wall.

The owner was given 28 days following the outcome of the appeal to remove the wall, in order to comply with the planning condition, but this was not complied with.

A Breach of Condition Notice was therefore served on the 3rd February 2022, requiring the removal of the wall in its entirety within 30 days of the date of the notice.

A follow up visit is scheduled to check the requirements of the notice have been complied with.

### **Section 215 Notices**

Section 215 (S215) of the Town & Country Planning Act 1990 provides a local planning authority (LPA) with the power, in certain circumstances, to take steps requiring properties and land to be cleaned up when its condition is deemed to adversely affect the amenity of the area.

This function has recently returned to the Planning Enforcement Team. Information relating to future S215 Notices that have been served will be included in further quarterly reports.

At present, the Enforcement Team has received 22 potential S.215 properties, which are now under investigation (including such premises as 45 East Ave - Woodlands, 57 Christ Church Road, and Queensgate in the Waterdale precinct).

### **Outstanding Appeals.**

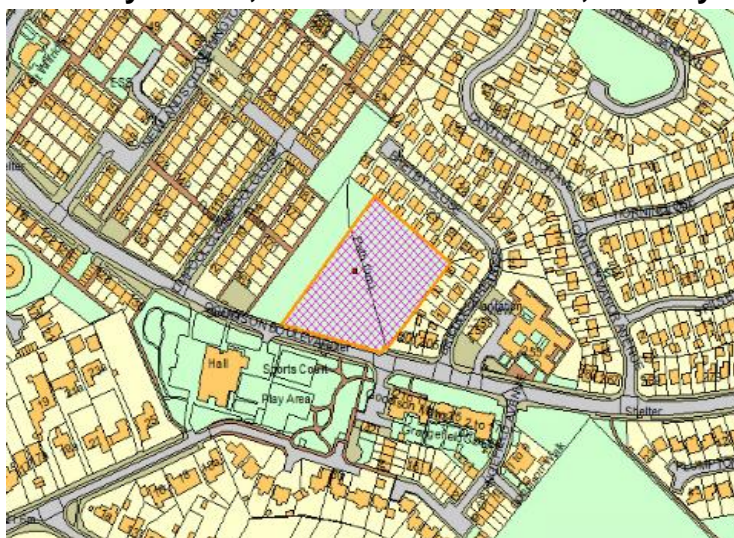
#### **38 Hawthorne Crescent – Mexborough.**

As previously mentioned, on the 27<sup>th</sup> April 2021 an Enforcement Notice was served on the owners of the property to cease the use of the land as a commercial sweet shop business. The owner subsequently submitted an appeal with the Planning Inspectorate, against the Enforcement Notice. On the 28<sup>th</sup> September 2021, the Planning Inspectorate upheld the Enforcement Notice and gave the owners until the 15<sup>th</sup> October 2021, to comply. A further site visit revealed that the signage had been removed, but the confectionary was still in situ. On the 9<sup>th</sup> February 2022 a site visit established that the confectionary had been removed and the Enforcement Notice had been complied with, the case is now closed.

## **General Cases**

The following are a few examples of cases currently under investigation by the Planning Enforcement Team:

### **Liberty House, Goodison Boulevard, Cantley**



An application was submitted for the above site under Reference No. 16/02268/FULM - Erection of 75 bed care home.

A complaint was raised concerning Condition No. 5 – non-implementation of a zebra crossing.

As an update to the previous entry. The information required has been provided by the applicant and submitted to the Highways Team for consideration, there is still outstanding information but in principle technical approval has been given.

### **29 – 31 Market Place, Bawtry**



A complaint was registered concerning the installation of three air conditioning units on the passage wall between No.27 & 29. After checking Google Street View and speaking to the complainant, it was apparent that the units had been in place for a number of years. The complainant was unaware that the development had been in place for over 4 years and therefore exempt from any enforcement action. As a result, the complainant was informed that no action could be taken.

### **100 Bentley Road, Bentley**



A complaint was received regarding the erection of a treehouse, without the relevant planning permission. Officers have attended the site on numerous occasions, but to no avail. Furthermore, the owners/occupiers have failed to respond to all correspondence sent to the property. Therefore, the relevant enforcement action will be taken.

### **92 Thorne Road**

**Before**



**After**





On 3<sup>rd</sup> September 2020, a complaint was received regarding an unauthorised installation of wooden fencing and gates along the highway boundary, without planning permission.

The Council attempted to remedy the identified breaches of planning control by attempting to work pro-actively with the landowner to either remove the fencing and gates or to submit a planning application, to seek permission to retain the wooden fencing and gates above the permitted 1 metre in height, adjacent to the highway.

However, these requests proved unsuccessful therefore an Enforcement Notice was served on 17<sup>th</sup> June 2021, that came into effect on 29<sup>th</sup> July 2021. An appeal against the notice was not submitted and hence became effective. The notice requires the owners to remove the wooden fencing and gates from the front and side boundary of the property that fronts the highway by the 29<sup>th</sup> August 2021.

A permitted development enquiry was submitted by the owner which was deemed that the development was not “permitted” and that planning permission would be required. Following several site visits the fence and gates still remained.

However a site visit conducted on the 26<sup>th</sup> April 2022 found the fence and gates to the front and side of the property had been removed. As such the Enforcement Notice had been complied with and the case has subsequently been closed.

## **Banners and advertisements displayed without consent or permission.**

In the fourth quarter, 23 companies and organisations were identified as displaying banners and advertisements within the borough of Doncaster, without consent. Initial contact was made resulting in 16 companies directly removing their displays within the required time period (2 days). The remaining 7 companies received a verbal warning due to being their first incident and their displays were removed.

Examples of illegal advertisements:

### **Sunny Bar Doncaster**

Following a check of the Doncaster area, a company's banners were identified on street furniture. Following direct contact with our Enforcement Officer, the company based in Sheffield, agreed to remove all items displayed in Doncaster, without consent or planning permission. A verbal warning was also issued, regarding future occurrences.

The following photographs show the advertisements on a piece of highway furniture in Doncaster town centre.

Before:



After:



### **Stripe Road – Hesley.**

During a patrol of the district, a recruitment advertisement sign without consent or planning permission, was identified. Following contact with the company, they personally removed their banner and sign frame from the adopted highway verge, and a verbal warning was issued. It was discovered that the company was from Carlton Forest Worksop Nottinghamshire.

Before:



After:



### For Sale/ To-Let Boards.

Since April 2021, following complaints of Estate Agents' boards causing a blight in specific parts of the urban/town centre area. An initial project, identified 280 locations, displaying either "for sale/to-let" boards. Whilst it is not an offence to display these boards, all the relevant companies were contacted by the Enforcement Team, to ensure that businesses are aware of the required standards of Class 3(A) of The Town and Country Planning (Control of Advertisements) (England) Regulation 2007.

In the fourth quarter, 47 of the remaining 111 boards being monitored were no longer displayed, either due to the expiry of their requirement or for being incorrectly displayed (i.e. several boards for the same company, displayed on one property). However, there were 33 new displays of "for sale/to-let" boards established.

The Enforcement Team will continue to monitor the 98 boards identified, and if required will take the appropriate action, to ensure compliance with the current planning regulations and guidance.

## Quarterly Enforcement Cases

<b>Quarter 4 (January – March 2022)</b>	
Received Enforcement Cases	123
Total Cases Pending	439
Closed Enforcement Cases	100

<b>Case Breakdown</b>	
Unlawful Advertisements	2
Breach of Conditions	26
Unauthorised Change of Use	30
Unauthorised Works to Listed Building	2
Unauthorised Operational Development	60
Unauthorised Works to Protected Trees	2

<b>Areas Where Breaches Take Place</b>	
Adwick and Carcroft	8
Armthorpe	3
Balby South	3
Bentley	2
Bessacarr	3
Conisbrough	10
Edenthorpe and Kirk Sandall	6
Edlington and Warmsworth	3
Finningley	7
Hatfield	10
Hexthorpe and Balby North	4
Mexborough	0
Norton and Askern	10

Roman Ridge	0
Rossington and Bawtry	8
Sprotbrough	8
Stainforth and Barnby Dun	7
Thorne and Moorends	6
Tickhill and Wadworth	9
Town	13
Wheatley Hills and Intake	2

<b>Formal Enforcement Action</b>	
Notices Issued	5
Prosecutions	1
Injunctions	0

Report Prepared By:  
 Planning Enforcement (Part of the Enforcement Team, Regulation & Enforcement,  
 Economy and Environment).

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