



## Appeal Decision

Site visit made on 25 September 2018

**by Darren Hendley BA(Hons) MA MRTPI**

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

**Decision date: 10<sup>th</sup> October 2018**

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**Appeal Ref: APP/F4410/W/18/3203074**

**Lime House, Chapel Lane, Sykehouse, Doncaster DN14 9BN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Metcalfe against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 17/03035/OUT, dated 6 November 2017, was refused by notice dated 8 February 2018.
  - The development proposed is the construction of one dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline form with all matters reserved for future consideration apart from access and, as has been confirmed by the appellant and the Council, also layout. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.
3. The revised National Planning Policy Framework (2018) (Framework) has been published during the course of the appeal, which I have considered in my decision. In the interests of fairness, the appellant and the Council were also given the opportunity to comment on this matter.

### Main Issues

4. The main issues are the effect of the proposal on the (i) amenity value of the protected trees on the site; (ii) living conditions of the occupiers of the neighbouring properties at High Grove and Lime House, by way of privacy; and (iii) highway safety, concerning the proposed access arrangements and the turning area.

### Reasons

#### *Protected Trees*

5. The appeal site contains a number of lime trees, together with a yew tree, which are found in a broadly linear arrangement extending from the site frontage on Chapel Lane through the southern part of the site to the boundary with the adjacent property at Lime House. A further lime tree and a beech tree are found in close proximity to each other on the site frontage, towards the

- boundary with High Grove. These trees are protected under the Doncaster Borough Council Tree Preservation Order (No.359) 2012 High Grove, Sykehouse Variation Order 2017 (TPO).
6. The protected trees are attractive specimens which make a positive contribution to the visual amenity of the site and the area. This is recognised through their inclusion in the TPO. They are highly visible and prominent from the streetscene. The Council's Development Guidance and Requirements: Supplementary Planning Document (2015) (DGR SPD) seeks for the successful integration of such trees identified for retention.
  7. The canopies of the protected trees which are found in the southern part of the site, in particular, would be located in close proximity to the area where the proposed dwelling would be found. It was evident from my site visit that, due to the extent of the canopies, they provide significant shading to this area. The proximity of the trees, therefore, clearly reduces the natural light levels it receives, even though this may not be as apparent at all times of the day.
  8. With the confines of the site, the proposed dwelling would be in proximity to the tree canopies, so that, when the trees are in leaf, it would be likely that the dwelling would suffer from heavy shading. Furthermore, with the tree coverage and the proposed dwelling on the site, there would be limited private garden space that would also not experience heavy shading. This would limit the enjoyment of the use of the outdoor area for its future occupiers.
  9. When these matters are considered together, in my view, they would be likely to result in pressures from the future occupiers for the trees to be lopped, topped or felled, despite that the trees are shown to be retained. As this would be to the detriment of the value of the protected trees and to their surroundings, this weighs against the proposal.
  10. The appellant considers that the proposal should not be restricted by what may happen in the future, with the protection that would be afforded by the TPO. However, as it is likely that the future occupiers would require substantial works to be carried out in order to provide for satisfactory living conditions, the likely adverse effect on the amenity value of the trees is for my consideration. Concerning the tree works on the site that gained approval<sup>1</sup>, the associated Council report states these relate to works to bring the site in line with the approved plan. The proposed dwelling was, though, removed from consideration from the previously approved planning application for residential development. As a consequence, the approved tree works carry limited weight in my decision.
  11. With regard to the Westminster Drive appeal decision<sup>2</sup> that I have been referred to, the Inspector considered that the tree in question did not unreasonably restrict direct sunlight or indirect daylight from reaching the property, that daylight reached significant parts of the garden and there was ample usable amenity space. In contrast, the proposal before me would be likely to cause such harm to arise. As a consequence, it would make it considerably more difficult to resist a future application for works to the protected trees. The site circumstances are, therefore, sufficiently different so as not to alter my conclusion.

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<sup>1</sup> Council ref: 16/02968/TPO

<sup>2</sup> Appeal ref: APP/ENV/3165106

12. I conclude that the proposal would have an unacceptable effect on the amenity value of the protected trees. As such, it would not comply with 'Saved' Policies ENV21 and ENV59 of the Doncaster Unitary Development Plan (1998) (UDP) and with Policy CS16 of the Doncaster Council Core Strategy 2011-2028 (2012) (CS) which seek to steer development away from trees and woodland; state that considerable importance will be attached to the need to protect existing trees, and that new developments do not cause unnecessary loss of trees nor imperil trees by building works; and by retaining and protecting appropriate trees. It would also not comply with Section 8.6 of the DGR SPD where it concerns the successful integration of trees identified for retention.

#### *Living Conditions*

13. High Grove contains a number of windows which face directly towards the site. The area in between the dwellinghouse at High Grove and the fenced boundary with the site is part of its garden area. The front elevation of Lime House, including the associated windows, is positioned at a slight angle to the site. The area up to the site boundary comprises of this property's unenclosed frontage, and provides access.

14. The Council's Residential Backland and Infill Development: Supplementary Planning Document (RBID SPD) states that there should be sufficient separation between the proposed development and existing dwellings to overcome the difficulties of overlooking, and that it will not be acceptable for a proposal to have windows that overlook other dwellings high occupancy areas to an unreasonable degree. The SPD also sets out minimum distances that will normally apply between the new dwelling and the existing properties. The proposed dwelling, due to the constraints of the site, would not wholly achieve these distances.

15. In particular, the proposed dwelling would be located in close proximity to the boundary with the garden of High Grove. With the trees causing limitations to where the windows would be positioned on the proposed dwelling, as a consequence, this would result in direct overlooking into the garden and towards the windows on the facing elevation of High Grove, in all likelihood. This would result in a significant reduction in its privacy levels. Whilst less decisive, the close relationship of the proposed dwelling to Lime House would also result in a notable increase in overlooking, notwithstanding this would be over an area which is less private.

16. The use of obscure glazing would not overcome this harm, as it is difficult to envisage an internal arrangement of the proposed dwelling that would adequately prevent overlooking and provide a reasonable living environment for its future occupiers. The RBID SPD does allow for the minimum distances to be reduced in certain instances related to character. However, as I have found the proposal would have an unacceptable effect on the amenity of the protected trees, it is not appropriate to accept the shortfall in separation distances in the interests of character.

17. An outline approval would form the planning permission for the proposal. Being mindful of the presence of the trees on the site and the proximity of the proposed dwelling to these properties, I am not satisfied that the reserved matters would be able to address these concerns without nullifying the planning permission.

18. I conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of the neighbouring properties at High Grove and Lime House, by way of privacy. Accordingly, it would not comply, in this regard, with Policy CS14 of the CS where it states that new development should have no unacceptable negative effects upon the amenity of neighbouring land uses or the environment. It would also not comply with 'Saved' Policy PH11 of the UDP which states that within residential policy areas development for housing will normally be permitted except where, amongst other considerations, the effect of development on the amenities of nearby properties would be unacceptable. It would also not accord with the RBID SPD in relation to the controls it applies to prevent unacceptable overlooking.

#### *Highway Safety*

19. Chapel Lane is a lightly trafficked single track road. The access which is shown on the submitted drawing would not meet typical visibility splay requirements, based on the evidence before me. However, with the nature of the road and the likely limited traffic movements that would arise from one proposed dwelling, this would not cause untoward highway safety concerns.
20. Although the provision of an on-site turning space may not be able to accommodate larger vehicles due to the restrictions that would need to be applied resulting from the presence of the trees and the proposed dwelling, this would also not be so unsatisfactory within the context of Chapel Lane that it would raise significant safety concerns.
21. I conclude that the proposal would not be unacceptable as regards highway safety, concerning the proposed access arrangements and the turning area. In this regard, it would comply with Policy CS14 of the CS where it provides for the safety of the highways and the RBID SPD in relation to access.

#### **Other Matters**

22. The proposal would make a contribution to the supply of housing, albeit this would be limited as one additional unit would be provided. It would not, though, achieve sustainable development for the purposes of the Framework, because with the harm that would arise to the amenity value of the protected trees, as well as to living conditions, it would not make for the effective use of land.

#### **Conclusion**

23. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. For these reasons, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Accordingly, the appeal should be dismissed.

*Darren Hendley*

INSPECTOR