

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 25th June 2019

Application 7

Application Number:	18/02761/FUL	Application Expiry Date:	Extended until 30 th June 2019
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Application Type:	Section 73 Application
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Proposal Description:	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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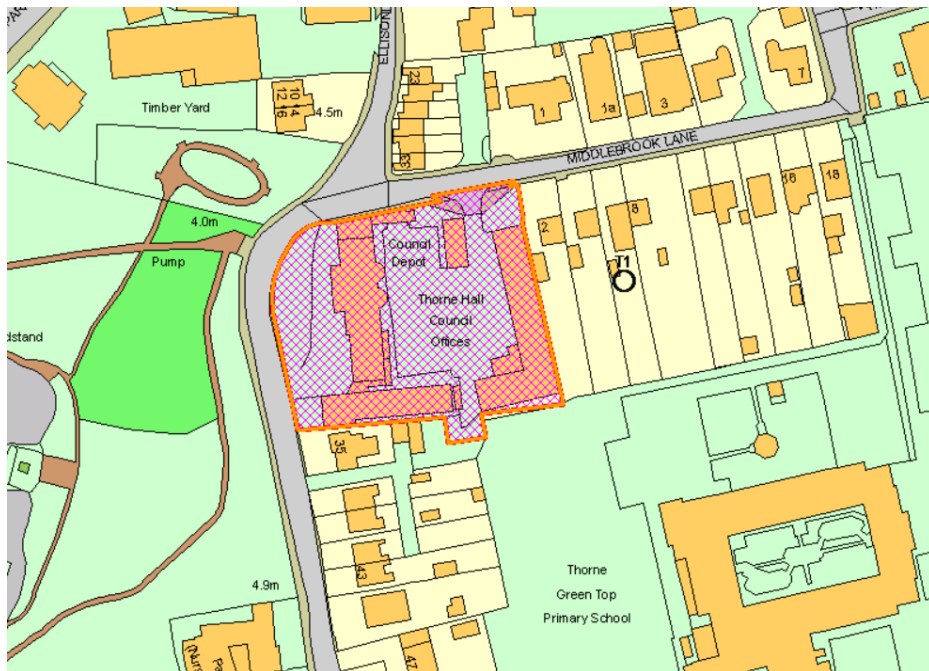
At:	1 Thorne Hall Court, Ellison Street, Thorne, DN8 5LE
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For:	Mr Alex Cutts
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Third Party Reps:	26 objections	Parish:	Thorne
		Ward:	Thorne and Moorends

Author of Report	Dave Richards
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MAIN RECOMMENDATION:	GRANT Sec 73 variation subject to conditions
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1.0 Reason for Report

1.1 This application is being presented to Members due to the public interest shown in the application and at the request of Cllrs Susan Durant and Mark Houlbrook.

1.2 The recommendation is that the wall height is reduced in a similar fashion to the original permission for the site, balancing the redevelopment of the site and public safety as public benefits which outweigh limited harm to a heritage asset.

2.0 Proposal and Background

2.1 The application seeks to reduce the height of a listed boundary wall from a maximum of 3.3m to 2.2m and to repair and repoint it in certain sections. The proposal relates to a section of boundary wall between 1 Thorne Hall Court and 25 Ellison Street, Thorne.

2.2 The wall is curtilage listed to Thorne Hall which is Grade II listed. Thorne Hall is undergoing redevelopment to provide private housing.

3.0 Relevant Planning History

3.1 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. As part of this permission, it was agreed that the wall subject to this application was to be reduced to 2.4m, transitioning to 1.8m using reclaimed brick. No objections were received to the reduction in wall height as part of this proposal.

3.2 In 2016, a further application was submitted to regularise variances to the approved plans under application reference 16/02725/FUL. During the course of this application, the neighbour at 25 Ellison Street requested that the wall height is retained for privacy purposes. The developer agreed and a planning condition requiring the wall to be maintained at its current height was imposed.

3.3 A concurrent application for listed building consent (18/02634/LBC) twin tracks the current application and any recommendation will follow for this consent.

4.0 Representations

4.1 This application has been advertised in accordance with the The Town and Country Planning (Development Management Procedure (England)) Order 2015 as follows:

Any neighbour sharing a boundary with the site has received written notification
Site notice
Advertised in the local press
Advertised on the Council website

4.2 Cllrs Mark Houlbrook and Susan Durant have raised concerns with the application and the impact to the setting of a listed building.

4.3 A total of 26 representations were received from individuals commenting on the submitted plans raising the following issues:

- Harm to the conservation area
- Harm to the setting of Thorne Hall
- Clarification on wall dimensions
- Unauthorised works to the wall have not been considered
- The wall has been neglected

5.0 Thorne Moorends Town Council

5.1 Thorne Town Council have objected to the application on the basis that the wall should be preserved.

6.0 Relevant Consultations

6.1 Conservation Officer - The wall is important in terms of its historic merit and should be retained as much as possible. I would need to be sure that there is no other course of action open than that proposed and see that the council's structural engineer has been consulted and welcome his comments.

6.2 Comments following analysis of lateral support options: - The buttressing wall option can be ruled out on aesthetic grounds. The wall post option is feasible but unfortunately whilst the applicant has said that it will be too expensive, there is no indication how much this will actually be so difficult to be definitive on. As discussed, however I would prefer money to be spent on the restoration of the hall. I would expect that the capping of the wall, including adjoining parts that have already been reduced to be done in stone rather than the concrete paving slabs that were used previously.

6.3 Historic England - No comments are required on this application.

6.4 Council Structural Engineer - The wall will require buttressing if it is to be retained at its current height and conform to current design codes. If not brick buttresses then the applicant could consider steel wind posts designed to cantilever, which could then be cloaked in brickwork to give the appearance of smaller brick piers.

6.5 Comments following analysis of lateral support options: "I have not had the opportunity to inspect the wall but provided it is vertical, free from excessive distortion and the brickwork is in reasonable condition then I wouldn't considered it a dangerous structure under Section 77 of the Building Act 1984 and it is unlikely enforcement would be taken in this respect." "As it does not comply with current codes of practice it will remain more susceptible to damage in strong wind condition. This will depend to some extent on how much shelter it receives from surrounding buildings and other structures. In general it is difficult to quantify the future risk of collapse though this may be somewhat reduced in the summer months."

6.6 Building Control Inspector - The wall appears to be in adequate condition and I would not considered it a dangerous structure under Section 77 of the Building Act 1984. However, the wall does not comply with current design codes.

6.7 Highway Officer - No objections.

6.8 The Doncaster Civic Trust has provided advice on the application, noting the loss of fabric and methods of repair.

7.0 Relevant Policy and Strategic Context

7.1 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.

7.2 In the case of this application, the Development Plan consists of the Doncaster Core Strategy (adopted 2012) and Unitary Development Plan (adopted 1998). The most relevant policies are CS1, CS14 and CS15 of the Core Strategy and Policies ENV25 and ENV34 of the UDP.

7.3 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.

7.4 As outlined above, Planning Permissions 15/02286/FUL and 16/02725/FUL are material considerations. Other material considerations include the National Planning Policy Framework (NPPF) (2019) and the National Planning Practice Guidance; as well as the Council's Developer Guidance and Requirements SPD (July 2015).

7.5 The emerging Doncaster Local Plan will replace the UDP and Core Strategy once adopted. The Council is aiming to adopt the Local Plan by summer 2020. Consultation on the draft policies and proposed sites took place during September and October of last year and the Local Plan is due to be published in early summer 2019. Given the relatively early stage of preparation of the emerging Local Plan, the document carries very limited weight at this stage.

Policy 14: Promoting sustainable transport within new developments

Policy 35-38: Historic Environment chapter.

Policy 37: Listed Buildings

Policy 38: Conservation Areas

Policy 43: Good Urban Design

8.0 Planning Issues and Discussion

8.1 The main planning issues relevant to this proposal are:

- The impact to Thorne Conservation area and the setting of a listed building
- Any potential harm or benefit arising from the proposal
- Any other issues

The Conservation Area and Thorne Hall

8.2 Section 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 Conservation Areas and the integrity and quality of listed buildings and their setting. The wall in question defines one of the boundaries to the Thorne Conservation Area and Thorne Hall itself is Grade II listed. The focus of objections to this application is the harm to both assets as a result of the reduction in the overall height of the wall.

8.3 The NPPF recognises that historic assets are an irreplaceable resource that local authorities should conserve in a manner appropriate to their significance. This approach is reflected in Policy CS15 of the Core Strategy, Policies EV25 and ENV34 of the UDP and modern policies in emerging plans. Policy DDH1 of the Thorne and Moorends NP, in line with adopted policies, states that proposals will be supported for the preservation or sympathetic enhancement of heritage assets, which secure their long-term future.

8.4 Other policies relevant to this assessment include Policies CS14 and CS18 of the Core Strategy. Policy CS14 seeks to ensure that new development does not have an unacceptable impact upon the amenity of adjacent land uses by protecting the quality, stability, safety and security of private property, public areas and the highway. Policy CS18 requires proposals to mitigate any potential ground instability.

8.5 In this case, 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.

8.6 In 2015, Planning Permission was granted for the redevelopment of Thorne Hall. The original approval established detached residential properties within the curtilage of Thorne Hall which, although encroached on its setting, nevertheless significantly enhanced the integrity and setting of Thorne Hall over its previous guise as a depot area for the Council. This approval included a reduction in the wall height subject to this application to 2.4m and its repair using reclaimed brick. As with the original application, the applicant has requested that the wall height be reduced in order to retain structure stability and having regard to the new land use (a driveway for residential dwellings).

8.7 The reason for the current application is that a subsequent approval to vary some minor details of the permission included a condition to retain the wall at its current height. The condition was imposed following an objection by the adjacent neighbour who requested that the wall should be retained for privacy and noise attenuation purposes and also to preserve the fabric of the wall (as opposed to the original permission).

8.8 The removal of outbuildings from the curtilage to Thorne Hall has meant the wall does not benefit from any significant lateral support. The Council's Structural Engineer and Building Control Officer have been consulted on the current application and their conclusions are that the wall whilst appearing structurally intact it, as it stands, requires buttressing to comply with modern design codes.

8.9 Thorne Hall and its curtilage forms one unified heritage asset and should be treated as such. The conservation officer believes that any loss of historic fabric to the wall should be seen as a last resort and this loss has to be assessed and balanced with other material considerations. As part of the assessment, options to buttress the wall or to provide cantilevered wind posts to brace the wall have been explored. Brick buttressing has been discounted for its impact to the appearance of the wall and wind posts have been rejected by the applicant for reasons of cost viability.

8.10 It is regrettable that the applicant does not wish to agree a wind post design and the loss of fabric will result in harm which is 'less than substantial' using the terms of Paragraph 196 of the NPPF. This paragraph states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case, there are two overriding public benefits discussed below.

8.11 Principally, the Council's Structural Engineer and Building Control Engineer respectively believe retaining the wall at its current height would not conform to current design codes. Further information on the present structural condition of the wall has been requested and any update will be reported to Members. Although there is no evidence to suggest that the wall is currently unstable, this 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, which carries significant, demonstrable weight.

8.12 Secondly, a reasonable assumption noted by objectors would be to insist on the retention of the wall at its current height. However, this may threaten the continuing the redevelopment to Thorne Hall under the original permission. The original permission has secured the hall for residential use with a maintained curtilage by private owners. The loss of some fabric to the curtilage listed wall was accepted as part of this permission which secured the optimum use for a building which was previously 'at risk' and its retention carries great weight.

8.13 Thirdly, the Council's legal advice is that a decision to enforce the retention of the wall at its current height, in light of a previous permission allowing its reduction, would be questionable. Members should bear this in mind when considering whether it is reasonable to insist on retaining the wall at its current height.

8.14 Having regard to all the relevant considerations, including the points raised by objectors, my opinion is that the wall height should be reduced to 2.2m and sympathetically repointed and recapped to complement the adjacent development. The repair and beneficial use of Thorne Hall is a significant benefit and it has removed the building from the buildings at risk register. That has been brought about by the conversion of the hall for residential use, 'paid for' in part by the development of the curtilage for residential housing and the loss of some fabric to the curtilage listed wall. The visual alterations required and development economics rule out a reasonable prospect of retaining the wall at its existing height and that there is a significant public safety argument demonstrating that a reduction in wall height is justified. As such, 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.

Other matters

8.15 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.

8.16 The Highway Officer has been consulted and has no objection from a highway perspective.

8.17 An objector has noted that unauthorised works have taken place to the wall. The Conservation Officer is aware of these works and will review following the determination of this application. A proposal by an objector to rebuild the wall would also result in harm to the fabric of the wall.

8.18 Whilst it is noted that an objector states that the wall would appear to be stable, it is clear that the layout of surrounding development has altered in recent history. This

includes former ancillary buildings within the curtilage of Thorne Hall which part buttressed the wall and provided protection in inclement weather.

9.0 Summary and Conclusions

9.1 For the reasons given above, and taking all other matters into consideration, the proposal complies with the relevant plan policies and planning permission should be granted subject to necessary conditions set out below.

9.2 Previous conditions, which have not been discharged, have been re-imposed for the avoidance of doubt.

10.0 Recommendation

10.1 Planning permission be granted subject to the following conditions:

01. U0069686 The development to which this permission relates shall be carried out in accordance with Planning Permission 16/02725/FUL except conditions 2 and 11 which are varied by this permission.

REASON

This permission is granted under the provisions of Section 73 of the Town and Country Planning Act 1990

02. U0069687 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:

Site location plan received 09.05.2019

Site plan received 09.05.2019

Design and access statement received 01.11.2018

REASON

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

03. U0069688 Within 3 months from the date of this permission and prior to any works, details of the works to the wall after it has been reduced in height 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 reduced 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.

04. U0069690 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.

05. U0069691 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.

06. U0069692 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 PH11 of the Doncaster Unitary Development Plan.

07. U0069693 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (No.596) (England) Order 2015 (as amended), Article 3, Schedule 2: Part 40 (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.

08. U0069694 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

09. CON2 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 and pursuant to guidance set out in the National Planning Policy Framework.

10. CON3 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 and pursuant to guidance set out in the National Planning Policy Framework.

11. U0069695 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.

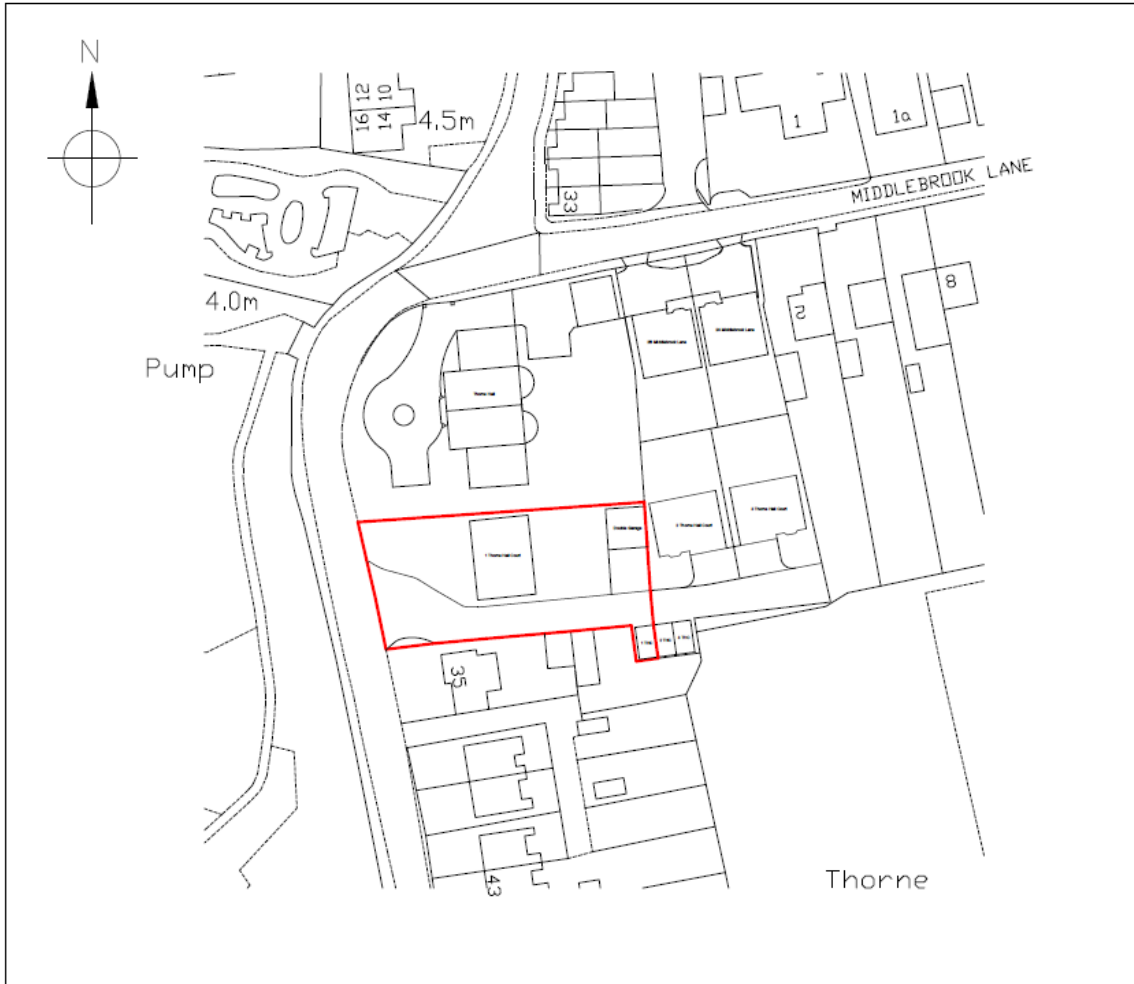
12. U0069696 Before the first occupation of any dwelling hereby permitted, the windows in that relevant property serving any ensuite or bathroom as indicated on the approved plans shall be permanently obscured to a level of obscurity to Pilkington level 3 or above or its technical equivalent by other 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 PH11 of the UDP.

Appendices

Appendix 1 – Location Plan



Site Location

Scale 1:1250

Appendix 3 – Elevations

Photo 1 :



Photo 2 :

