



## Appeal Decision

Site visit made on 10 March 2020 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

### Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 03 April 2020**

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### Appeal Ref: APP/F4410/W/19/3243991

### 24-26 Low Hill, Selby Road, Thorne, Doncaster DN8 4JJ

- 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<sup>1</sup> Darren Dunnill against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 19/00571/FUL, dated 8 March 2019, was refused by notice dated 29 July 2019.
  - The development proposed is conversion of detached garage to a dwelling.
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### Decision

1. The appeal is allowed and planning permission granted for the conversion of detached garage to a dwelling at 24-26 Low Hill, Selby Road, Thorne, Doncaster DN8 4JJ in accordance with the terms of the application Reference 19/00571/FUL, dated 8 March 2019, subject to the conditions set out in the Schedule of Conditions for attached to this decision.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

3. The effect of the proposal upon safe access to the site and neighbouring properties on Low Hill.

### Reasons for the Recommendation

4. The South Yorkshire Residential Design Guide 2011 (the RDG) states that shared private drives are unadopted and may give access to a maximum of 5 dwellings, which is the existing situation at Low Hill. However, the RDG clarifies that this is a notional capacity which would not need to be laid to adoptable standards. In other words, the guidance refers to a notional capacity and is a general principle rather than a fixed rule. There is no corresponding policy in the development plan that seeks to set an absolute limit on the number of dwellings that can be served off a private drive. In that context, it seems to me that the RDG forms a useful benchmark against which to assess a proposal

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<sup>1</sup> Taken from Appeal form. Application addresses as Mrs.

but does not necessarily preclude divergence from the guiding principle if circumstances warrant that approach.

5. The conversion of the detached garage would introduce an additional dwelling, thereby resulting in 6 residential properties being served from the lane. The Council argue this will lead to increased intensification of traffic on this lane which would cause harm to highway safety on Low Hill.
6. A previous appeal allowed for part of the appeal site to be used for storage of commercial vehicles, subject to a personal condition and a condition to limit the number of commercial vehicles to three, along with two trailers. In effect, that is the baseline position against which the current proposal should be assessed because that level of use has previously been found to be acceptable. The Council and a number of interested parties contend that the proposed dwelling is likely to generate more trips based on deliveries, school runs, waste disposal and emptying the cess pit. They also contend that any harm due to increased intensification of use would be further exacerbated by the width and horizontal alignment of Low Hill which has no formal turning provision.
7. Low Hill is a private access of Selby Road which as stated above provides access to about five dwellings on this lane. The road is covered with loose unbound material and, at the time of my visit, due to rain there were a few small shallow puddles of water. However, overall the lane is in good condition and is not in a state that would prevent easy access by any normal motor vehicle. I also observed on my visit that Low Hill is wide enough to pass two normal sized vehicles moving in opposite directions and is at its widest along the boundary and access gate of the appeal property. This provides adequate turning, as I experienced on my visit to the site. Vehicles would also be able to turn within the site. As stated in paragraph 4 above, the existing permission on the site allows for 3 commercial vehicles and 2 trailers which are larger than a vehicle which would be required for residential commute. Consequently, the proposal would not introduce any additional difficulty in turning on Low Hill.
8. Following concerns raised by the Environment Agency, the proposal was revised prior to being determined by the Council<sup>2</sup> and now proposes a one-bedroom dwelling. This type of dwelling would not provide family sized accommodation, and would be unlikely to create as much traffic as a larger dwelling which may well involve school run trip generation as well as other trips associated with a household with multiple family members. An additional dwelling of single occupancy, or two people at the most would not result in a significant increase in demand for mail delivery and waste disposal such that it would lead to a substantial intensification in the use of Low Hill. Such services are usually scheduled to service the whole street or area and frequency is not necessarily dictated by the number of residential dwellings or occupancy. With regards to emptying of the cesspit, it is not considered that a one-bedroom dwelling would result significant increase in foul sewage which would require more frequent trips to empty the cesspit. In any case, such trips are infrequent and quite far between to result in an increased intensification of use on Low Hill. Consequently, the proposal would not result in a significant and unacceptable intensification of use on Low Hill, over and above the established position.

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<sup>2</sup> Revised 3/06/2019 – reconfigured ground floor layout to remove all habitable rooms to suit EA

9. Having regard to the above, I find that the proposed conversion of detached garage to a dwelling would not result in harm to highway safety and would not have a negative effect upon safe access to the site and neighbouring properties on Low Hill. Whilst I recognise the notional capacity of 5 dwellings being served from a private drive, as set out within the RDG, the circumstances in this case having regard to the planning history, the scale of the development proposed, and the nature of Low Hill, I am satisfied that an additional dwelling can be served from the private lane without causing undue harm to highway safety. Accordingly, the proposal complies with the National Planning Policy Framework (NPPF) and Policy CS14 of the Doncaster Council Core Strategy, 2011-2028 (2012) which amongst other things seek to ensure that new development makes a positive contribution to achieving safety of the highway and provides good access.

#### *Other Matters*

10. Neighbouring residents at 18 and 20 Low Hill have raised concerns regarding deterioration of the lane due to increased traffic, and also the issue of ownership and maintenance of the lane. I believe the issue of increased traffic and deterioration, as well as provision for turning have been sufficiently dealt with in the paragraphs above. With regards ownership of the lane and its maintenance, it is not within the remit of this decision to determine the ownership of the lane. However, as the objectors have pointed out that maintenance has always been by residents along the lane. That is a private matter between the parties involved. For the reasons given above I am satisfied that the lane can accommodate an additional dwelling without causing harm to highway safety. An additional dwelling would be unlikely to have significant impact on the integrity of the lane to a degree that would make it unsuitable for vehicular traffic and maintenance would be a matter for the private individuals concerned.
11. A concern has also been raised suggesting that the overall height would need to be raised in order to provide adequate headroom which would lead to coalescence of the settlement as well as provide overlooking from windows at the first floor into neighbouring properties. However, the plans submitted to be considered for this appeal do not suggest any increase, and any permission granted would be based specifically on submitted plans as detailed in condition 2 in the schedule below. In addition, the Council raised no issues with regard to overlooking or harm to the living conditions of neighbouring residents and I see no reason to take a different view, having regard to the design of the scheme and the separation distances involved.

#### **Conditions**

12. I have considered the conditions suggested by the Council and have attached those which meet the relevant tests, as set out at paragraph 55 of the National Planning Policy Framework, making changes to the wording, where necessary, in the interests of precision and clarity. The Council has sought a number of pre-commencement conditions. Advice in the Planning Practice Guidance is clear that such conditions should only be used where there is a clear justification and that the timing for the submission of details is fundamental to the decision. Having considered the suggested conditions, some of the details appear to be genuinely necessary 'prior to commencement' and I have

amended the suggested wording to require the submission of details at appropriate stages.

13. The standard time limit condition has been imposed along with a condition specifying the relevant drawings as this provides certainty.
14. As the existing use of the appeal site is as a garage for commercial vehicles and trailers there is a possibility of contamination from oil leaks. A condition which requires an appropriate contaminated land risk assessment to be carried out prior to commencement of works has been attached in order to secure the satisfactory development of the site in terms of human health and the wider environment pursuant to the National Planning Policy Framework.
15. Details of foul, surface water and land drainage systems and cesspit are required in order to ensure that the site is connected to suitable drainage system.
16. Details of the site car park surfacing, drainage and marking are required in order to ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points.
17. A condition which specifies the minimum first floor level, as well as a condition which prevents habitable accommodation at the ground floor have been imposed in order to reduce the risk of flooding to the proposed development and future occupants.
18. In addition to the conditions suggested by the Council I have also imposed a condition to prevent the land or garage being used for the parking or storage of commercial vehicles in order to eliminate the risk of contamination and in the interests of highway safety, to ensure that the vehicular movements are in line with the nature of the development proposed and assessed.
19. In addition to the above conditions, the Council have also suggested an informative with regards flood risk. Whilst this is not added to appeal decisions, through the Council's evidence, the appellant is now aware of this.

### **Conclusion and Recommendation**

20. For the reasons given above and having had regard to evidence before me, I recommend that the appeal should be allowed.

*Ifeanyi Chukwujekwu*

APPEALS PLANNING OFFICER

### **Inspector's Decision**

21. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be allowed.

*Chris Preston*

INSPECTOR

### **Schedule 1 – Conditions**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan, Revised 3/06/2019 – reconfigured ground floor layout to remove all habitable rooms to suit EA (Proposed Rear Elevation, Proposed Side Elevations, Proposed Front Elevation, Existing Rear Elevation, Existing Side Elevations, Existing Front Elevation, Proposed Ground Floor Plan, Proposed First Floor Plan, Proposed Section A-A, Site Plan).
3. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
4. The development hereby granted shall not be begun until details of the foul, surface water and land drainage systems which include an individual cesspool for the site and all related works necessary to drain the site have been submitted to and approved by the Local Planning Authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the Local Planning Authority prior to the occupation of the development.
5. No development shall commence until details of foul drainage from the site shall be discharged to its own individual cesspool, details of which shall be submitted to and approved by the Local Planning Authority prior to the commencement of any works on the site. The cesspool shall be operating to the satisfaction of the Local Planning Authority before any related dwelling is occupied.

6. No development shall commence until details of the marked-out area of the site to be used by vehicles which includes proposed surfacing and drainage have been submitted to and approved by the Local Planning Authority.
7. Floor levels for the first floor shall be set no lower than 5.55 metres above Ordnance Datum (AOD) and there shall be no habitable accommodation on the ground floor throughout the lifetime of the development.
8. The land or garage shall not be used for parking or storage of commercial vehicles.