



Appeal Decision

Site visit made on 30 June 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th July 2020

Appeal Ref: APP/F4410/W/20/3251188

44 Doncaster Road, Bawtry, Doncaster DN10 6NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr G Wilson against Doncaster Metropolitan Borough Council.
 - The application Ref: 19/02041/FUL, is dated 20 August 2019.
 - The development proposed is the erection of a single dwelling and an associated garage.
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Decision

1. The appeal is dismissed and planning permission for a single dwelling and an associated garage is refused.

Procedural Matter

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted an appeal statement which sets out its objections. As this concerns the matters of dispute with the appellant, it forms the basis of the main issues in this case.

Main Issues

3. The main issues are the effect of the proposal on (i) protected species, in particular bats; (ii) the living conditions of the occupiers of 44 Doncaster Road (No 44) by way of privacy; and (iii) the character and appearance of the area.

Reasons

Protected Species

4. The Conservation of Habitats and Species Regulations 2017 imposes a duty to consider the relevant Directives and whether there is a reasonable likelihood of European Protected Species being present and affected. Bats are a European Protected Species.
5. The appellant's Bat Survey included an examination of an outbuilding on the site to determine the likely presence or absence of bats. Whilst no bats were found roosting in the building during the preliminary daytime assessment and there were no signs of bat occupation, the survey found that the building displays a moderate number and diversity of roost features. It was, therefore, assessed as offering a moderate level of bat roost potential. The survey goes

onto recommend that nocturnal surveys are carried out to confidently determine the presence, absence and/or status of roosting bats. This would also inform any requirement for bat mitigation or compensation.

6. Accordingly, there is a reasonable likelihood of protected species being affected. Circular 06/2005¹ confirms that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. As the nocturnal surveys that have been recommended are not before me, I am unable to conclude that the proposal would not be likely to result in harm to bats.
7. Circular 06/2005 goes on to state that the surveys should be carried out before planning permission is granted. Hence, it is not a matter that could be dealt with through the imposition of a planning condition if I was minded to allow the appeal. Nor would it be possible to put any necessary measures in place by condition to protect bats, or provide any required mitigation or compensation, in the absence of the results of the nocturnal surveys. The attendance of the Council's Ecologist during demolition would not suffice as regards the requirements of Circular 06/2005.
8. I conclude that the proposal would have an unacceptable effect on protected species, in particular bats. Thus, it would not comply with Policy CS16 of the Doncaster Council Core Strategy 2011-2028 (2012) (Core Strategy) which states that the natural environment will be protected and enhanced, including that nationally and internationally important habitats, sites and species will be given the highest level of protection in accordance with relevant legislation and policy. It would also not accord with the National Planning Policy Framework (Framework) where it concerns the protection of biodiversity.

Living Conditions

9. The proposed dwelling would be located in the existing garden area of No 44 and where the outbuilding is currently located. The rear elevation of No 44 would face towards the proposed dwelling. The area up to where the common boundary would be formed is a paved area, with further garden space to the side.
10. The side of the proposed dwelling would contain a first floor bedroom window that would face over the boundary at a short distance towards the rear of the host dwelling. The separation would be considerably less than what is envisaged under the Council's Development Guidance and Requirements: Supplementary Planning Document (2015) (SPD) in order to protect privacy.
11. With the close proximity and orientation of the bedroom window to the boundary, it would overlook the rear of No 44 to an unacceptable degree. Whilst it is understood that the paved area is used for parking, it benefits from being in a secluded location that affords it an appreciable level of privacy, as does the rear of the host dwelling. The proposed wall on the boundary would not significantly lessen the adverse effect that would result because the window would be positioned well above it. The commensurate size of the garden space for No 44 that would remain would also not address these privacy concerns.

¹ Circular 06/2005: Biodiversity and geological conservation – statutory obligations and their impact within the planning system

12. I conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of No 44 by way of privacy. As such, it would not comply in this regard with Policy CS14 of the Core Strategy and with Policy H1 of the Bawtry Neighbourhood Development Plan 2019 – 2032 (2019) which state that new development should have no unacceptable effects upon the amenity of neighbouring land uses and the environment, and that residential amenity is protected through consideration of overlooking and privacy, amongst other considerations.
13. The proposal would also not accord with the Framework where it concerns a high standard of amenity for existing and future users, and with the SPD where it states that development should not significantly impact on the living conditions, privacy and amenity of neighbours.

Character and Appearance

14. No 44 is one of an attractive pair of period semi-detached villa type properties. Whilst it has been altered and extended, it retains a number of its original features. The plot is spacious and it has frontages onto both South Avenue and Doncaster Road. The trees, shrubs and hedgerows result in somewhat of a verdant character. The outbuilding to the rear of the house is on a subservient scale, and is of a similar period and design. It adjoins a similar outbuilding on the neighbouring property.
15. South Avenue is of a largely different character which is defined by a planned estate type layout. The alignment of the road gently curves past the site and so the properties do not appear with a firm building line. The houses neighbouring the site are more recent additions. Near opposite, the side of the property on the corner of Doncaster Road is set a fairly short distance back from South Avenue.
16. Whilst the plots of No 44 and the adjoining property retain some degree of their historical character, No 44 differs from its neighbour in that it is afforded the frontage onto South Avenue. This is not apparent on the historical mapping that I have been provided with, which shows these two properties as isolated plots on Doncaster Road. The site's location has changed considerably since those times. The house at No 44 itself would not be altered by the proposal and much of the vegetation would remain. These aspects of the contribution to the local character would continue.
17. The proposed dwelling would constitute a well-proportioned house of a largely traditional appearance, and include some detailing that is also found on No 44. The design would be of sufficient quality that it would compensate for the loss of the outbuilding. It respects the house at No 44 and the outbuilding which it is replacing. This also adequately accounts for the design not being more typical of the properties on South Avenue.
18. As a clear building line is not a defining characteristic, that the proposed dwelling would be forward of what would be its neighbouring properties would not mean that it would unduly detract from the local character, or that the plot would be of insufficient depth. The vegetation would also likely result in the proposed dwelling not being overly prominent, including when viewed from Doncaster Road.

19. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. Hence, it would comply in this regard with Policy CS14 where it is concerned with local distinctiveness, reinforcing local character, and responding positively to existing site features and integrating into the local area.
20. The proposal would also comply in this respect with the character based approach of Policy H1. For the purposes of the policy, the loss of part of the garden needs to be considered against that the design of the proposed dwelling would contribute towards the townscape character. In the context of South Avenue, it would also not be of an appreciably higher density and so does not require clear justification in this regard.
21. The proposal would accord with the Framework where it is concerned with developments that are to be sympathetic to local character. For the purposes of the Council's Residential Backland Infill Development Supplementary Planning Document, it would not constitute backland development with its South Avenue frontage and it would accord with the character and appearance approach of that document.

Other Matters

22. The proposal would make a contribution to the supply and need for quality housing, as well as providing the related social benefits. It would also be accessible to local services and provide economic benefits related to construction, the spend of the future occupiers, Council Tax and the New Homes Bonus.
23. Such benefits would, though, be on a modest scale as one additional dwelling would result. They would not outweigh the significant harm that would arise by way of the effect on protected species, in particular bats, and on the living conditions of the occupiers of no 44 by way of privacy. The proposal would not constitute an efficient use of land when these factors are considered.
24. A number of other development plan policies have been referred to in the appeal submissions. As these do not appear to be in dispute between the main parties, I do not have reason to consider these further. The policies in the Council's emerging Local Plan do not seem to change substantially the approach to the relevant issues in the existing development plan policies, and so they have a limited bearing on my decision.
25. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion.

Conclusion

26. The harm that would arise to both protected species, in particular bats, and the living conditions of the occupiers of No 44 by way of privacy is decisive. For the reasons set out above and having regard to all matters that have been raised, the appeal should be dismissed.

Darren Hendley

INSPECTOR