



## 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.
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### 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).