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<b>Application Number:</b>	21/01536/FUL
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<b>Application Type:</b>	Section 73 Application
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<b>Proposal Description:</b>	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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<b>At:</b>	1 Thorne Hall Court, Ellison Street, Thorne, DN8 5LE
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<b>For:</b>	Mr Frazer Fillingham (agent), on behalf of Mr Alex Cutts (applicant)
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<b>Third Party Reps:</b>	29 representations	<b>Parish:</b>	Thorne
		<b>Ward:</b>	Thorne and Moorends

<b>Author of Report:</b>	Dave Richards
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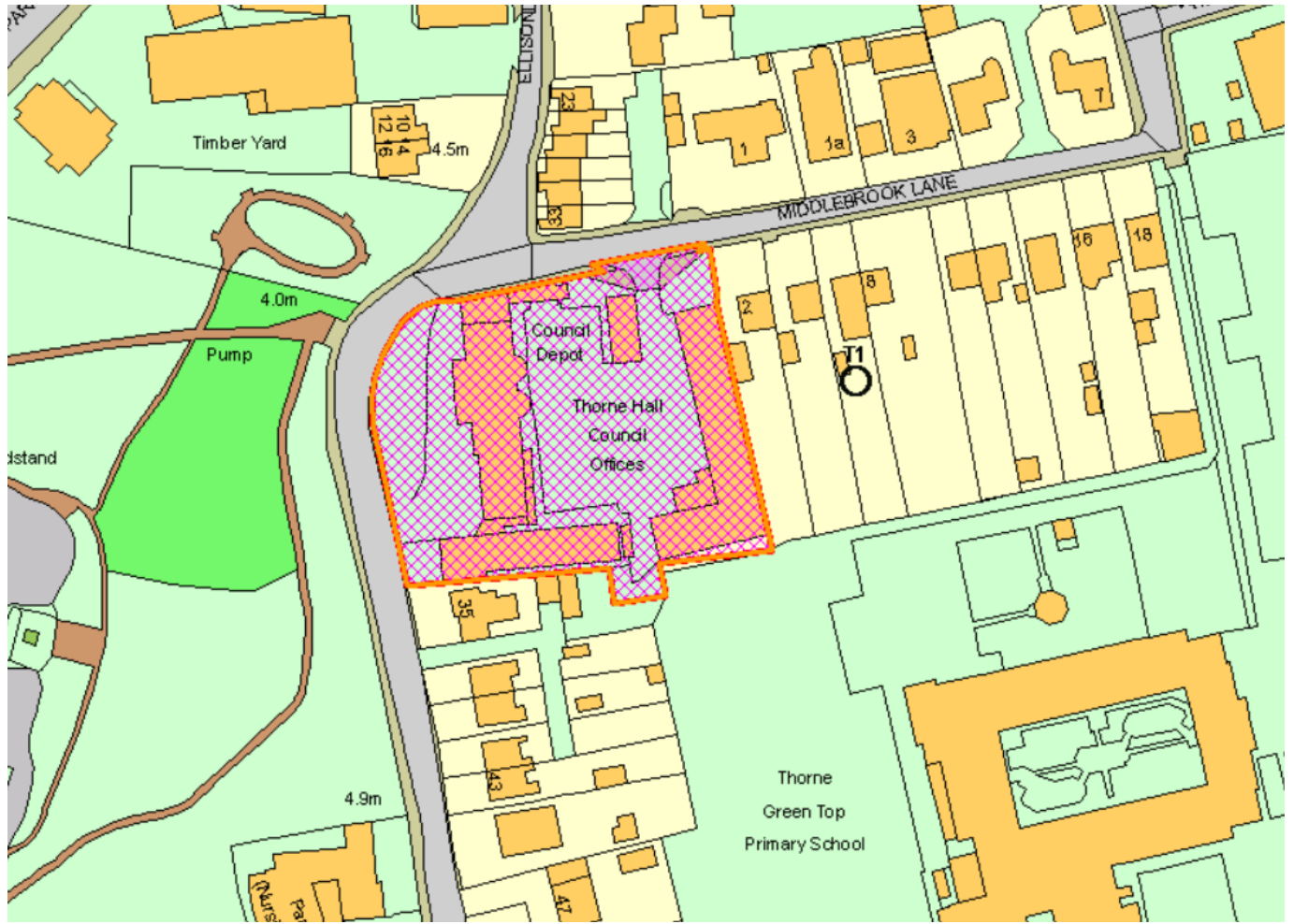
## SUMMARY

The application seeks planning permission to vary the approved conditions relating to planning permission 16/02725/FUL (as altered from 15/02286/FUL) to implement the recommendations of a structural survey to make alterations to a section of a listed wall adjacent to Thorne Hall Court and 65 Ellison Street. The site lies within the Thorne Conservation Area and within the Curtilage of Thorne Hall, a Grade II Listed building.

It is still my opinion that the wall should be reduced in height to ensure it retains a suitable thickness to its height as the current scheme of agreed works will not ensure that the current height of the wall can be maintained. However, this approach has been previously proposed by the developer and the recommendation to grant planning permission was refused planning permission by Members in 2019.

The report therefore sets out that public safety is the overriding justification for implementing the recommendations set out in the survey. The interventions to the character of the wall would result in 'less than substantial harm' to the character and appearance of the Conservation Area and setting of Thorne Hall, but that this harm is outweighed by public benefits of the proposal.

**RECOMMENDATION: GRANT variation to the conditions subject to the planning permission as set out in the recommendation.**



## **1.0 Reason for Report**

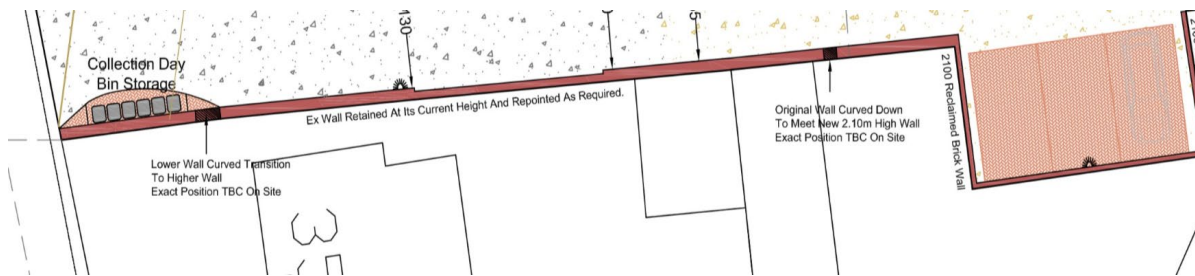
- 1.1 This application is being presented to Planning Committee at the request of Cllr Mark Houlbrook and due to the public interest shown in the application.

## **2.0 Proposal and Background**

- 2.1 The application seeks to vary conditions 2 and 11 of Planning Permission 16/02725/FUL (as altered from 15/02286/FUL). The effect of this permission would be to supersede the requirement to carry out an agreed set of works to a listed wall and implement the recommendations of an independent structural survey.
- 2.2 The proposal relates to a section of boundary wall adjacent to the access road between 1 Thorne Hall Court and 25 Ellison Street, Thorne. The wall is curtilage listed to Thorne Hall, which is Grade II listed. Thorne Hall has undergone redevelopment to provide five new dwellings under the original parent planning permission reference 15/02286/FUL.
- 2.3 A concurrent application for listed building consent (21/01199/LBC) twin tracks the current application and any recommendation will follow for this consent.

## **3.0 Site Description**

- 3.1 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. It notes that the late-C19 or early-C20 two-storey extensions to the pavilion wings and the two-storey and single-storey buildings arranged round the depot yard are not of special interest.
- 3.2 The wall in question has been altered and added to over time but despite its current appearance, contains historic fabric, and provides a firm edge to the conservation area and makes a positive contribution to the significance of Thorne Hall. It does not, however, form part of the listing description to the asset and does not hold the same intrinsic value as Thorne Hall itself.
- 3.3 For the purposes of this report, references will be made to “the wall” which would be affected by the works. This part of the wall runs for approximately 10.5m in length along the common boundary shared with 35 Ellison Street. The height of the wall varies across the affected area depending on the condition of the brickwork, from 3.3m to 1.6m towards the front of the site. The wall section is bookended by proposed transitions to lower walls shaded in black as shown in the drawing extract below:



**Figure 1: The wall (approved plan: planning permission 16/02725/FUL)**

#### **4.0 Relevant Planning History**

4.1 The planning history to this application is a key consideration and all applications listed below are material to the decision.

##### *The original planning permission*

4.2 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. A copy of the approved site plan showing the overall layout is shown in Appendix 2.

4.3 It is pertinent to note that the original planning permission granted the partial demolition of the listed wall to 2.4m and its repair using reclaimed brick. The approved plan shows the existing wall to be retained and repointed but reduced to a maximum wall height of 2.4m to ensure stability. An extract of the agreed works is shown in Appendix 3.

##### *The variation*

4.4 Following development commencing, in 2017 Planning Permission 16/02725/FUL regularised variances to the original planning permission. These included the repositioning of Plot 1 approximately 1m further away from Thorne Hall, changes to landscaping and minor alterations to the access arrangement to Plots 4 and 5.

4.5 Following concerns raised by the occupier of 35 Ellison Street, it was proposed that the wall was retained at its current height rather than reduced to 2.4m across its length under the original planning permission.

4.6 A scheme of works “the wall maintenance schedule” was imposed via a condition and the approved plans. The schedule of the works would increase the thickness of the wall to support a new full height infill brickwork wall, approximately 225mm thick and 8.7m in length to give a continuous flush wall. The wall would also be generally repointed and repaired to prevent water ingress. The intended section for reference is shown shaded in turquoise in appendix 4.

##### *The request to reduce again*

4.7 In 2018, Planning Reference 18/02761/FUL sought to reduce the height of the wall to 2.2m and in effect, nullify the requirement for the wall maintenance works to be carried out. The justification for the request was based on advice that the wall no

longer benefited from any significant lateral support and retaining the wall at its current height would not conform to current design codes. A number of options, including the use of wall ties and buttressing, were considered but my recommendation was that the wall be reduced in a manner consistent with the original planning permission, albeit to 2.2m in height as opposed to 2.4m

- 4.8 The request was recommended by Planning Officers at Planning Committee in June 2019 but was refused planning permission following a resolution by the Council's Planning Committee. Members gave the following reason for the decision:

*The proposal to reduce the height of the wall would harm the historic fabric and significance of a heritage asset and the character and appearance of the Thorne Conservation Area, which would be neither preserved nor enhanced. The proposal would therefore conflict with Policy CS15 of the Core Strategy, Policies ENV25 and ENV34 of the UDP and Policy DDH1 of the Thorne and Moorends Neighbourhood Plan. It would also conflict with one of the core principles of the NPPF to conserve heritage assets in a manner appropriate to their significance.*

#### *Current position*

- 4.9 Following this decision, Officers reconsidered the current planning position for the development, given enforcement action was to be considered when faced with the non-compliance to complete the wall maintenance schedule agreed under Planning Permission 16/02725/FUL.
- 4.10 As part of this assessment, the Council commissioned an independent survey of the wall to assess the general structural condition of the wall and reconsider the requirements of the wall maintenance schedule to ensure it was fit for purpose and enforceable.
- 4.11 The survey concluded that the thickness (or slenderness ratio) would still remain less than the recommended guidance, making it theoretically much more susceptible to failure, even if the improvement works have taken place in line with the existing permission. Based on this advice, the applicant has sought to submit a variation to Planning Permission 16/02725/FUL to substitute the requirements of the wall maintenance schedule with the recommendations set out in the survey.

## **5.0 Site Allocation**

- 5.1 The site falls within Residential Policy Area, as defined by the Doncaster Local Plan (adopted in 2021), and Thorne Central Conservation Area. The Draft Thorne Neighbourhood plan shows the site being located within the main town development limits.

## **5.2 National Planning Policy Framework (NPPF 2021)**

- 5.3 The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and the relevant sections are outlined below:

- 5.4 Paragraph 2 states that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.5 Paragraphs 7 – 11 establish that all decisions should be based on the principles of a presumption of sustainable development.
- 5.6 Paragraph 47 reiterates that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.7 Paragraph 56 states that planning conditions should be kept to a minimum and only be imposed where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 5.8 Paragraph 59 refers to effective enforcement action as discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.
- 5.9 Paragraph 97 states planning policies and decisions should promote public safety by anticipating and addressing possible malicious threats and natural hazards.
- 5.10 Paragraph 119 requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 5.11 Paragraph 130 states planning decisions should, amongst other things, ensure developments will function well and add to the overall quality of the area, are visually attractive and optimise the potential of the site and are sympathetic to local character and history. Subsection 130 requires developments to be made safe, inclusive and accessible .
- 5.12 Paragraph 174 states planning policies and decisions should contribute to and enhance the natural and local environment, including preventing new and existing development from being put at unacceptable risk from land instability.
- 5.13 Paragraph 183 states planning policies and decisions should ensure that a site is suitable taking account of ground conditions and any risks arising from land instability and contamination.
- 5.14 Paragraph 184 states where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 5.15 Paragraph 189 describes heritage assets as an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 5.16 Paragraph 190 states plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
  - c) the desirability of new development making a positive contribution to local character and distinctiveness; and
  - d) opportunities to draw on the contribution made by the historic environment to the character of a place.
- 5.17 Paragraph 195 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 5.18 Paragraph 196 states where there is evidence of deliberate neglect of, or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
- 5.19 Paragraph 199 states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 5.20 Paragraph 200 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 5.21 Paragraph 202 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 5.22 Local Plan**
- 5.23 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. The development plan for Doncaster includes the Doncaster Local Plan (adopted 23 September 2021).
- 5.24 The following Local Plan policies are the most relevant in this case:
- 5.25 The site lies within a Residential Policy Area according to Policy 10. This policy supports new residential development (in line with its original permission) providing it, amongst other matters, protects and enhances the qualities of the existing area and contribute to a safe, healthy and prosperous neighbourhood.

- 5.26 Policy 34 states proposals and initiatives will be supported which preserve and, where appropriate, enhance the heritage significance and setting of the Borough's heritage assets. Thorne is mentioned as an historic market town which should be protected and that new development should support the re-use and investment in the repair and maintenance of Doncaster's historic buildings.
- 5.27 Policy 36 states development proposals affecting a listed building or its setting will be assessed using a number of key principles, including those which enhance or better reveal the significance of a listed building or structure. Proposals that harm the significance of a listed building or its setting will not be supported other than in circumstances where that harm is clearly outweighed by the public benefits of the proposal having regard to the significance of the heritage asset affected.
- 5.28 Policy 37 relates to development affecting, or within the setting of, Conservation Areas. Proposals that result in harm to a conservation area will be refused unless the harm is outweighed by public benefits arising from the development. The policy states that proposals within conservation areas requiring the demolition of buildings that make a positive contribution to the conservation area will not be supported unless it would result in demonstrable public benefits sufficient to outweigh the harm. Any proposal for the demolition of a building or site in a conservation area will need to be accompanied by an acceptable redevelopment scheme or a remedial scheme for making good the building or site, which will be required to be implemented immediately following demolition.
- 5.29 Policy 42 requires proposals to reflect and respect character and local distinctiveness. In all cases, the components of a development must be designed and assessed to ensure that, amongst other things, it provides safe and secure private property, public areas and the adoptable highway ensuring access points
- 5.30 Policy 48 states that development will be supported which protects landscape character, protects and enhances existing landscape features, and provides a high quality, comprehensive hard and soft landscape scheme.
- 5.31 Policy 55 deals with the need to mitigate any contamination or land stability on site by:
- A) demonstrating there is no significant harm, or risk of significant harm, to human health, or land, natural environment, pollution of soil or any watercourse or ground water;
  - B) ensuring necessary remedial action is undertaken to safeguard users or occupiers of the site or neighbouring land and protect the environment and any buildings or services from contamination during development and in the future;
  - C) demonstrating that adverse ground conditions have been properly identified and safely treated; and
  - D) clearly demonstrating to the satisfaction of the Local Planning Authority, that the land is suitable for its proposed use.

### **5.32 Thorne and Moorends Neighbourhood Plan**

- 5.33 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.

### **5.34 Other material planning considerations and guidance**

- 5.35 Sections 66 and 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 listed buildings and conservation areas. That duty is reflected in the policies of Chapter 11 of the DLP which include the development management policies applicable to protecting the historic environment of the Borough. These policies have been assessed as sound and follow the significance led approach of national policy in the NPPF.
- 5.36 The National Planning Policy Guidance Advises on enhancing and conserving the historic environment. It sets out key definitions on relevant topics such as how the significance of assets should be assessed, how harm can affect such assets and how to determine the public benefits of a proposal.
- 5.37 Doncaster Council's previous suite of adopted Supplementary Planning Documents (SPDs) have been formally revoked in line with Regulation 15 of the Town and Country Planning (Local Planning) (England) Regulations 2012, following the adoption of the Local Plan. The SPDs refer to superseded development plan policies, and some provide guidance which is not in accordance with the new Local Plan. The Transitional Developer Guidance (April 2022) provides guidance on certain elements, including design, during the interim period, whilst new SPDs to support the adopted Local Plan are progressed and adopted. The Transitional Developer Guidance, Carr Lodge Design Code and the South Yorkshire Residential Design Guide (SYRDG), should be treated as informal guidance only as they are not formally adopted SPDs. These documents can be treated as material considerations in decision-making, but with only limited weight.

## **6.0 Representations**

- 6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) by means of site notice, council website, press advertisement and neighbour notification.
- 6.2 Cllr Mark Holbrook initially called in the application for the following reason:

An application was submitted previously, for the same works, but was rejected at planning committee. I understand that nothing has changed, other than the release of an engineer's report which does not state the wall is unsafe, among other things.

Following a site meeting and reviewing the further details, Cllr Houlbrook's full response is below:

My view is to accept the engineers report, in full.

I also feel that developer was allowed to take down a section of the wall without consent. Without consent would deem this to be an illegal act and in planning terms, would be a criminal act. I am unsure why no action was taken to address

this issue with the developer. This would seem to be very unfair and unreasonable in the circumstances.

The height of the wall should remain at the same height, with the pointing of the wall on the external side of the wall (facing Thorne Wall). Quite frankly, it's an eyesore. The side of the wall, to the rear of premises should be tapered down so that it's the same as the front part of the wall. There is of course a requirement to place coping stones (not paving slabs) on the top of the wall. I would certainly recommend this

6.3 25 representations have raised the following issues:

- A reduction in wall height will result in loss of privacy
- The wall should be protected and suitable/agreed restoration work should be completed
- Loss of fabric to the wall
- Claims that the wall is unsafe and a pressing safety issue are wrong

The majority of the comments mentioned above refer to a proposal to reduce the height of the wall which is incorrect. The proposal is to retain the wall at its current height and implement the recommendations of the submitted survey. Therefore, the proposal would be in accordance with the general principles of the concerns raised.

In addition, the adjacent neighbours to the wall have been individually consulted and their responses are set out as follows:

6.4 Mr Michael and Mrs Lyn Mulligan, 1 Thorne Hall Court –

- The wall should be reduced in height to match the other walls around the Thorne Hall complex.
- This will make it safer and more in keeping with the surrounding area.
- The bricks that would be salvaged from the reduction could be used to repair/replace the weathered damaged bricks in the original wall.
- The road that runs along side the wall is in constant use by pedestrians (adults and children) as well as vehicles, which is a worry to all of us and others that use the road.

Mr Gary Flavell, 2 Thorne Hall Court -

- The wall is a significant safety concern to neighbouring properties and access ways used by both foot passengers and vehicle traffic.
- Damage to the wall continues to develop by vegetation
- If the wall fails it would restrict access to properties on Thorne Hall

Mr Paul Wallace, 3 Thorne Hall Court -

I support a reduction in height of wall and object to keeping height as current for the following reasons:

- Wall was originally approved by planning for reduction, only to be revoked after minor amendment to plot 1.
- Objections were raised site historic interest - Unfortunately a precedent has been set as no objections were raised at previous planning applications regarding Thorne Hall when it was a council office and new vehicle access was granted resulting in Boundary walls being removed.
- Other listed buildings have been demolished in Thorne.
- The Wall is not road facing, and a reduction will not only keep most of the listed wall visible 78% vs 28%. but also a reduction keeps it in sympathy with existing wall surrounding Thorne Hall.
- The proposal to add a wall to thicken will cost more take away from the existing façade and unfortunately the owner of the wall is different from the owner of the land that the proposed wall would be built on.
- Vegetation and Ivy from 35 Ellison Street has added to deterioration of the wall given the mortar joints are of lime and in some places the Ivy has penetrated the wall, this needs addressing to avoid problems in future.
- I refer to CDA 1971 act - also permission is normally required to attach a structure to a wall not owned by the same.
- It must be commented on the local developer has done a great job in redeveloping a listed property which had been allowed to deteriorate by previous owners and in doing so built some modern homes to a high specification.
- This development is something Thorne Parish council should be proud of and has increased the value of neighbouring properties to Thorne hall.
- People have the right to air their objections but if they state due to historic reasons need to look hard at why they didn't object to other listed applications , some of these wouldn't have been contacted on this application and a few of the objections appear to be copy and paste with some detail removed.

#### 6.5 Mr Neil Martin, 35 Ellison Street –

- The wall should be preserved and important in terms of its historic merit
- Works should be carried out in accordance with the agreed wall maintenance schedule
- Unauthorised works have taken place to the wall
- Inaccuracies with the submitted documents
- Damage to the wall due to lack of maintenance and age, not vegetation

#### *Officer comments on other issues raised*

- 6.6 As noted above, objectors have noted any reduction in the wall would result in a loss of privacy. The wall would be retained at its current height and offers substantial screening to the boundary at ground floor level.

- 6.7 Representations have noted unauthorised works which have previously taken place to the wall. These claims have been investigated by the Council and have not found expediency to take further action. This decision is based on the nature of the works themselves which have not been judged as harmful to the asset. Furthermore, the action was considered in light of submitted proposals which a) allow restorative works to be agreed under the wall maintenance schedule conditioned as part of 16/02725/FUL and b) the affected area was subject to a proposal to reduce the height of the wall under reference 18/02761/FUL.
- 6.8 An objector has noted that No. 1 Thorne Hall Court has not received notice of the development. Notwithstanding this, the Council have written to this property on a number of occasions to inform them of the planning application, the proposal and its implications. The occupants have contacted the planning department and are aware of the proposals.

## **7.0 Thorne Town Council**

- 7.1 No comments received.

## **8.0 Relevant Consultations**

### **8.1 Conservation Officer –**

During the course of the application, the intention of the proposal was clarified. It is noted that this has been refused previously against previous recommendations but has been subject to further independent structural advice. Whilst the wall is important in terms of its historic merit unfortunately to retain it to its current height safely it will either need massive buttresses, which cannot be accommodated and also would not visually look appropriate, or have a skin of modern bricks with extensive reinforcements which would be considered to inevitably reduce the wall's historic interest.

In order to retain as much of the historic interest of the wall its reduction would be the preferred course of action. However, any reduction of the wall should be accompanied by an appropriate stone coping and sensitive repair for the whole stretch of historic walling to mitigate the reduction in height of the wall.

If the full length of the historic brick wall is provided with an appropriate coping, its reduction would be considered acceptable. Whilst there is some harm to the significance of the wall, the setting of the listed hall and the conservation area it is within this is outweighed by the public benefit of having a stable wall that retains its historic integrity as much as possible and the improvement of its overall appearance.

## **9.0 Assessment**

- 9.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

*'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.*

- 9.2 The NPPF at paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan,

unless material considerations indicate otherwise. The NPPF must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

- 9.3 This report considers the proposal against the Development Plan (Doncaster Local Plan, Joint Waste Plan), the relevant sections of the NPPF and the National Planning Practice Guidance.
- 9.4 The main issue is whether the proposal would preserve the setting of a curtilage listed asset, a section of wall adjacent to 35 Ellison Street and Thorne Hall Court, and if harm arises, whether it is outweighed by other public benefits.
- 9.5 For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale:
- Substantial
  - Considerable
  - Significant
  - Moderate
  - Modest
  - Limited
  - Little or no

### **Principle of Development**

- 9.6 It is important to note the planning history background to the application set out in paragraphs 4.1 to 4.10 of this report. The original planning permission for the redevelopment of Thorne Hall includes a reduction in the wall to a height of 2.2m. Although it was subsequently agreed to maintain the height of the wall by a later variation to this planning permission, in effect the original permission was implemented and remains a material consideration in the determination of any future planning applications.

### **9.7 ENVIRONMENTAL SUSTAINABILITY**

#### **Impact on the Character of the Conservation Area**

- 9.8 Government policy in respect of the historic environment is set out in the National Planning Policy Framework (NPPF). The NPPF recognises that historic assets are an irreplaceable resource that local authorities should conserve in a manner appropriate to their significance. Any harm, which is less than substantial, must be weighed against the public benefit of the proposal.
- 9.9 The Council's Local Plan also places great emphasis on preserving and enhancing the distinctive features of the Borough's many conservation areas and listed assets. The conservation area is also supported by an appraisal, which describes the intrinsic value of the conservation area in more detail. The approach overall to the protection of heritage assets should be seen as consistent with national policy and can attribute significant weight.

*The significance of the wall to Thorne Hall*

- 9.10 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. There is little mention of the boundary walls to the listing and the significance is largely restricted to the internal and external plan form of the building.
- 9.11 Boundary walls in the conservation area where they are historic and appropriate in character and materials are worthy of retention and protection in order to preserve the character and appearance of the area. The demolition or part demolition of boundary walls therefore should be seen as a last resort. This is because the removal of walls disrupts the rhythm of features that are important within the street scene and can significantly alter the sense of enclosure of the street.
- 9.12 The wall in question has been altered and added to over time but despite its current appearance, contains historic fabric, and provides a firm edge to the conservation area and makes a positive contribution to the significance of Thorne Hall. Notwithstanding this, it does not form part of the listing description to the asset and does not hold the same intrinsic value as Thorne Hall itself.

*The current condition of the wall*

- 9.13 The Head of Planning has sought the advice of an independent structural engineer to carry out a survey and report on the general structural condition of the wall. In addition, the surveyor was instructed to assess the requirements of the wall maintenance schedule that are currently extant to ensure it is fit for purpose by being enforced through existing planning conditions.
- 9.14 Three annotated photos were taken during the survey to accompany the observations above. These are reproduced below as they are helpful in describing the particular areas of interest and condition of the wall:

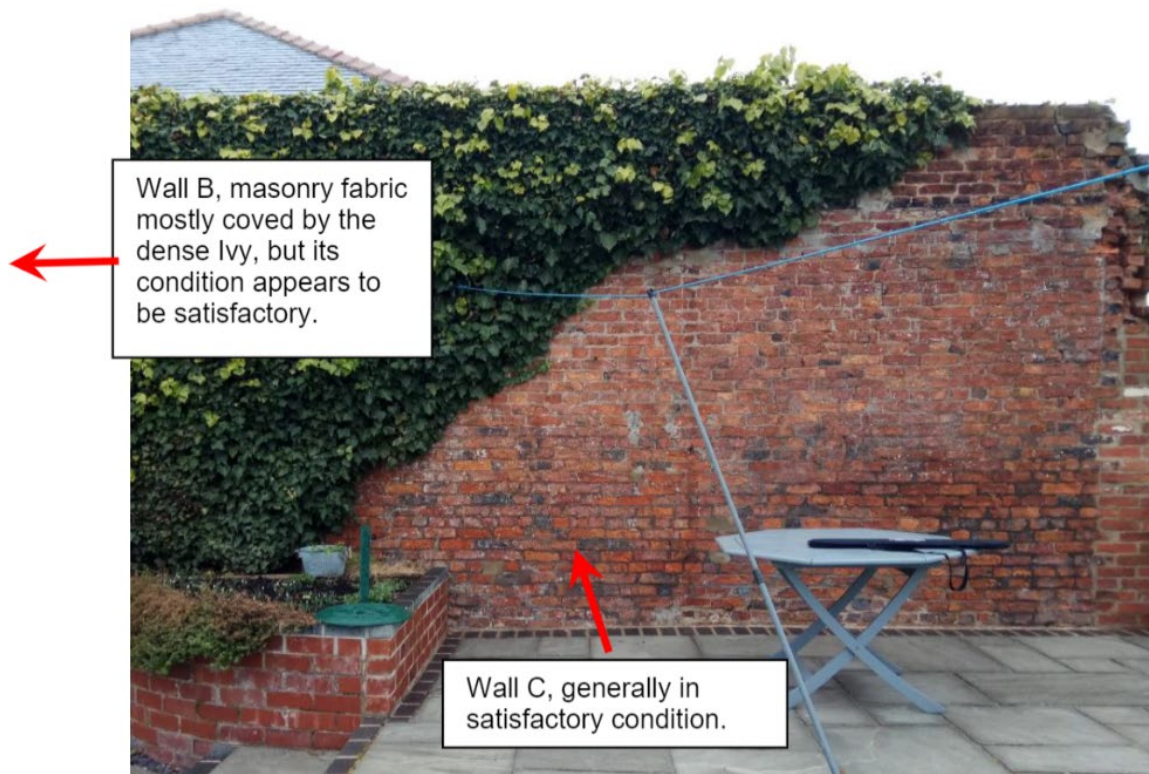


**Figure 2: Wall B.** Described in the survey as indented with many areas of mismatching brickwork and dilapidated render finishes.



**Figure 3: Interface between Wall C and Wall D.**





**Figure 4: Wall C as viewed from the garden of No. 35 Ellison Street**

9.15 The surveyor noted the following:

- (a) The wall has many areas of mismatching brickwork and random dilapidated render finishes.
- (b) The general condition of the bedjoints and the brickwork fabric varied from being reasonably good to poor (erosion and frost attacked bricks and bedjoints).
- (c) The thickness of Wall A and Wall C (on either sides of the indented Wall B) is not the same.
- (d) The verticality of Wall A, Wall C & Wall D appears to be satisfactory. Wall B (indented wall section) is marginally out of plumb at a few locations along its length.
- (e) The coping stones on top of Wall B & Wall C were either missing or showing sign of deteriorations. Wall A is a relatively newer wall of variable heights and the coping stones appear to be in satisfactory condition.
- (f) The brickwork at the point (interface of wall C & Wall D) where it changes in height was noted in poor condition.

9.16 The surveyor concluded that the general condition of the wall is varied and includes areas of missing/damaged bricks and localised eroded bedjoints. It is noted that past remedial works to the wall have taken place with the use of different types of bricks. The general alignment of the wall is seen as satisfactory, with the exception of indented sections where the wall is leaning marginally. Where sections of the wall



were visible on the neighbouring side, the fabric was seen as in satisfactory condition, with a planter offering some lateral stability (although not a permanent structure). The connection between Wall C at the interface with Wall D was noted as being in very poor condition and, in the opinion of the surveyor, vulnerable to fail in high winds.

#### *The requirements of the Wall Maintenance Schedule*

- 9.17 The current planning permission requires the owner to infill the indented section of the wall to enhance the lateral stability of the wall. Whilst the strengthening works would enhance the wall stability, the surveyor has noted that the slenderness ratio (height of wall divided by its thickness) after the infilling brickwork would remain under the recommended threshold, which, in this case, would limit a wall of this thickness to be no more than 2.2m high. To repair the wall in accordance with the Wall Maintenance Schedule would therefore mean that the wall would remain in excess of the maximum recommended height.
- 9.18 *The development and works*
- 9.19 As noted above, Members have not been persuaded in the past that there is sufficient justification to allow a reduction in height of the wall. Furthermore, there has been significant and sustained support for the retention of the wall by members of the public.
- 9.20 To that end, the application proposes a more invasive set of alterations to the wall in order to provide lateral stability. The proposals involve the partial demolition of the transition points to the highest part of the wall and rebuilt with steel bars embedded within the brickwork. It includes a new concrete footing to the indented sections of brickwork to build up new infill brickwork to match the existing wall in brickwork and mortar. Again, new steel bars and wall ties would be drilled within the wall. Although the survey notes the provision of steel rod posts tensioned to further improve stability, this has been suggested as optional and would involve much more substantial demolition in order to rebuild the wall. Finally, it is proposed to reuse where possible existing coping stones or new stones to offer protection from water ingress.
- 9.21 The Conservation Officer believes that the works required to retain the wall at its current height safely will inevitably reduce the wall's historic interest as parts of the wall and rebuilding will result in similar losses of fabric and replacement which would be difficult to match and tie in sympathetically. The Officer retains the view that in order to retain as much of the historic interest of the wall, a reduction in wall height would be the preferred course of action.
- 9.22 Paragraphs 201-202 of the NPPF sets out that where a proposed development will lead to harm, an assessment should be made as to whether this harm is substantial or less than substantial, in terms of then assessing whether there are any public benefits which outweigh this harm. The NPPF does not explain the difference between substantial and less than substantial harm but national policy guidance states an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. I would take this harm as defining a degree of harm that goes to the heart of the reason for designation.
- 9.23 Thorne Hall and its curtilage forms one unified heritage asset and should be treated as such. However, the listed building, and its overall significance as a designated

heritage asset, would remain intact. Similarly, the proposal would harmfully affect a small part of the conservation area. Much of the significance of the conservation area would be unaffected. In that overall context, the harm that would be caused by the proposals to the significance of the designated heritage assets affected would, in all cases, be less than substantial. There would still be harm against the asset, and therefore the proposal would conflict with Policies 36 and 37 of the Local Plan.

- 9.24 The previous application considered options to buttress the wall or to provide cantilevered wind posts to brace the wall. These options were considered by the Conservation Officer to have an equally harmful and disruptive impact on the significance of the wall, either by the additional bulk of the buttressing (which would also compromise the width of the road access), or as a result of the intrusion of wind posts being excavated into the wall.

*Final conclusions*

- 9.25 The alterations proposed would harm the special architectural and historic interest of the listed building and fail to preserve or enhance the character or appearance of the conservation area. In this situation, the NPPF requires that less than substantial harm to be weighed against public benefits.
- 9.26 Objectors to the application believe that the implementation of the Wall Maintenance Schedule would be sufficient to preserve the integrity of the wall and its long term stability. The findings of an independent survey, together with the opinion of the Council's Building Control Inspector, is that retaining the wall at its current height in this manner would not conform to current design codes. It is justified, in my view, to review conditions 2 and 11 based on the evidence of a more recent survey of the wall and the recommendations of a qualified person.
- 9.27 It is accepted that there are many free standing walls in Doncaster, likely including the historic cores of Thorne and other town centres, which may also may not meet current design standards. However, the wall at Thorne Hall has been subject to a planning application and it is therefore a requirement of the planning process to risk assess its condition as part of considering whether the current conditions attached to a planning permission continue to meet the tests of imposing restrictions on development.
- 9.28 It would be impractical and unnecessary to inspect all walls unless a risk has been identified. However, in this case, it is necessary and correct to do so. Given the age of the wall at Thorne Hall, it would not have been structurally designed, or selected in accordance with recognised guidelines. The wall has an excessive height to thickness proportion and currently is without adequate piers, buttressing or reinforcing. The wall is adjacent to a highway and so vulnerability to impact or other lateral load, whether accidental or deliberate, must also be considered. The wall contains symptoms of deterioration such as mismatching brickwork, surface crumbling and poor condition of mortar and cappings allowing water ingress. Finally, the support of the wall has been lessened by the removal of a large outbuilding which previously buttressed the wall and provided lateral stability. This was only accepted however with the original reduction in wall height to 2.4m to compensate.
- 9.29 The current condition of the wall needs to be addressed. In my view, it 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 in the determination of planning applications and I attach substantial importance and weight in accordance with the NPPF towards public safety. In this context, I find that the public benefits of the proposal in providing a scheme of works which would provide structural stability to the wall would outweigh the harm that it would cause.

- 9.30 In conclusion, having regard to all the relevant considerations, including the points raised by objectors, my opinion is a proposal to update the opinions of previous survey and provide a scheme of works should be supported. The wall should not be retained at its current height unless further works can be delivered. 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. This approach would be compliant with policies 36 and 37 of the Local Plan and Paragraphs 174, 189, 190, 195, 196, 199, 200 and 201 of the NPPF.

### **9.31 SOCIAL SUSTAINABILITY**

#### Living conditions

- 9.32 Policies 10 and 44 are relevant in terms of respecting and protecting residential amenity. 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.

#### Highway Safety

- 9.33 Policy 42 deals with the components of developing, including the protection of private property, public areas and the adoptable highway. There may be some intermittent disruption to the private driveway whilst the works are ongoing but otherwise there is no permanent risk to highway safety.

### **9.34 Conclusion on Social Impacts**

- 9.35 The environmental impact of the alterations to historic fabric are discussed elsewhere in the report. However, there are no identified impacts to local amenity in other respects. The development would be in accordance with policies 10, 42 and 44 of the Local Plan, and paragraph 130(f) of the NPPF. The social impact of the development is considered to be acceptable overall.

#### Highway Safety and Traffic

- 9.36 Policy 44 of the Local Plan requires residential developments to provide sufficient convenient, safe and secure allocated parking spaces, designed so as not to negatively impact on the function or character of new and existing streets. The NPPF in para 111 states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on road safety, or the residual cumulative impacts on the road network would be severe'.

### **9.37 ECONOMIC SUSTAINABILITY**

- 9.38 It is anticipated that there would be some short-term economic benefit to the development of the site through employment of construction workers and tradesmen

connected with the build of the project, however this is restricted to a short period of time and therefore carries limited weight in favour of the application.

### **9.39 Conclusion on Economy Issues**

9.40 Para 8 a) of the NPPF (2021) sets out that in order to be economically sustainable developments should help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.

## **10.0 PLANNING BALANCE & CONCLUSION**

10.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

*'Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise'.*

The outcome of this application therefore depends on:

- Whether there are any adverse impacts which would significantly and demonstrably outweigh the benefits; and
- Whether the overall planning balance would be in favour or against the scheme.

10.2 In terms of the benefits of the scheme, the development would provide a suitable means of strengthening and restoring a listed wall and supersede the existing unsatisfactory works which are conditioned on a previous planning approval. In the same vein, the works would address the fundamental issue that the wall is too high in relation to its thickness and, without further lateral stability, presents a risk of failure in the future without any further intervention. The purchase of materials and services in connection with the scheme and local employment during the construction period are both economic benefits that also weigh in limited favour of the scheme.

10.3 In terms of harm, the interventions required would inevitably result in an element of demolition and rebuilding and, although close matches may be possible, it would result in the appearance and fabric of a section of the wall to be altered to more modern materials. This harm would result in an equivalent level of 'less than substantial harm' as if the wall was reduced in height as previously proposed.

10.4 For the reasons given above, and taking all other matters into consideration, the proposal is considered to present sufficient justification to grant planning permission subject to conditions set out below. Under the provisions of the NPPF, the application is considered to be a sustainable form of development.

### *Conditions*

10.5 Previous conditions have been reworded or removed to reflect that the site has now been built out.

## 11.0 RECOMMENDATION

### 11.1 MEMBERS RESOLVE TO GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT SUBJECT TO THE CONDITIONS BELOW:

#### Conditions / Reasons

01. 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:

Location plan received 28.04.21  
Structural survey received 28.04.21

#### REASON

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

02. Within 6 months from the date of this permission, the works detailed in the submitted structural survey shall be carried out. Prior to these works, details of works to the wall after it has been altered 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 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.

03. 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.

04. 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.

05. 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 41 of the Local Plan.

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (No.596) (England) Order 2015 (as amended), Article 3, Schedule 2: Part 14 (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

07. 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

08. 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, in accordance with the National Planning Policy Framework and Doncaster's Local Plan Policy 54 & 55.

09. Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filing 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, in accordance with the National Planning Policy Framework and Doncaster's Local Plan Policy 54 & 55.

10. 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.

11. The windows in the approved dwellings 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.

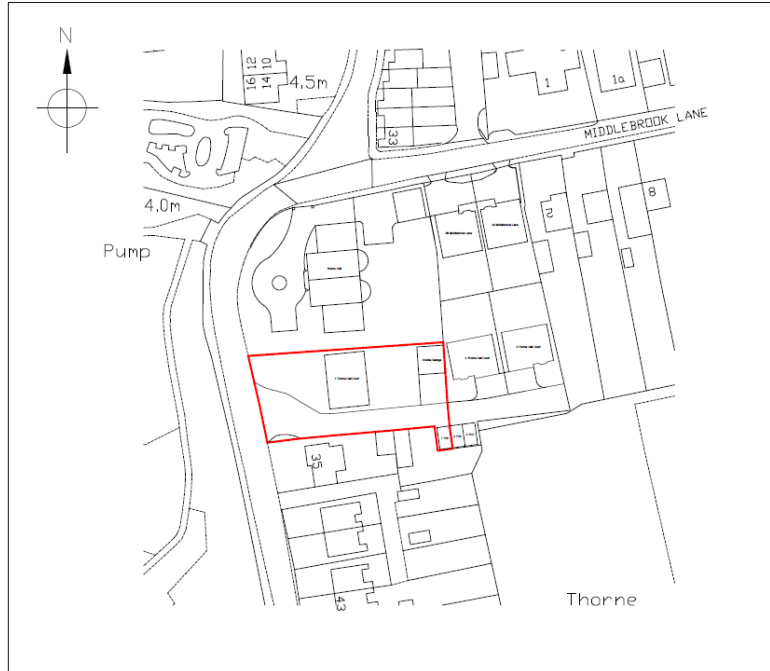
REASON

To ensure that the development does not impact on the privacy of the adjoining premises in accordance with Policy 44 of the Local Plan.

**The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.**

# Appendices

## Appendix 1 – Location Plan



Site Location  
Scale 1:1250

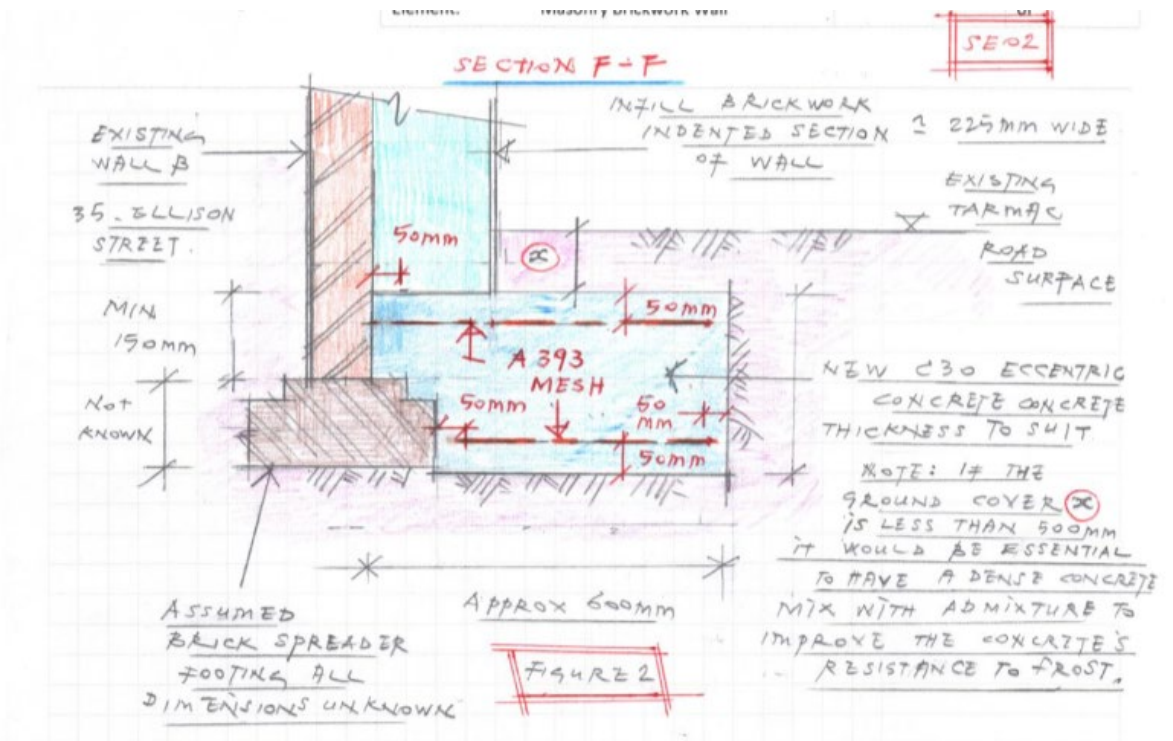
## Appendix 2: Approved Site Plan (planning permission 15/02286/FUL)



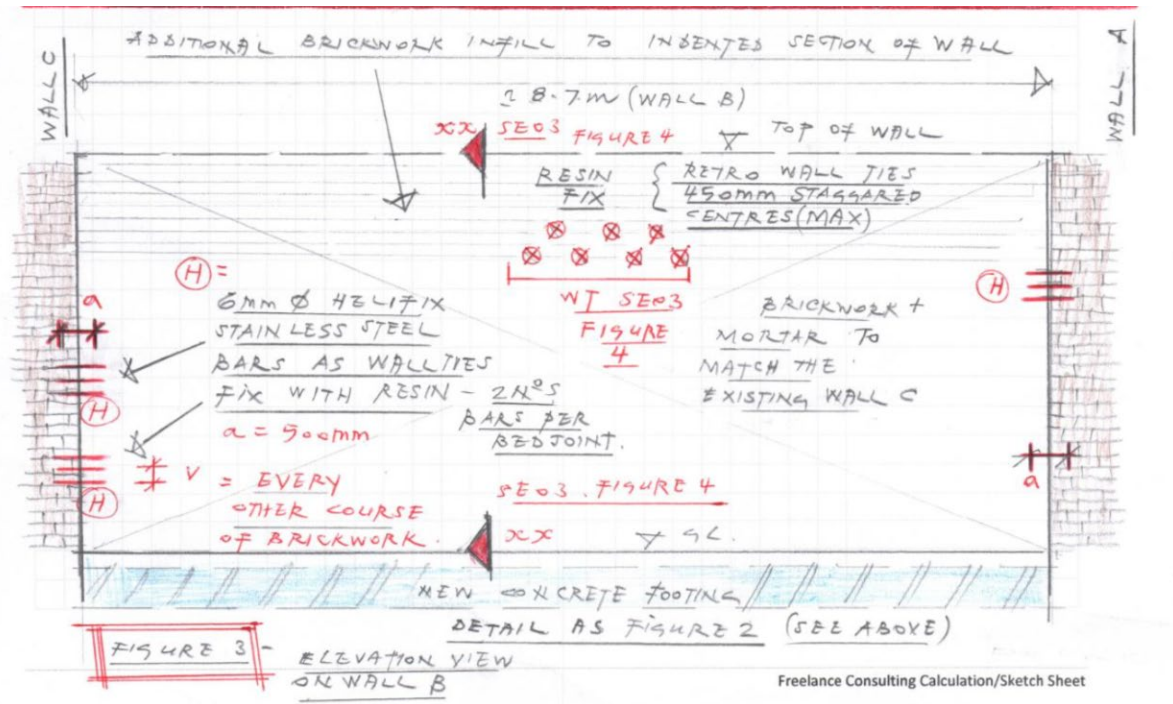




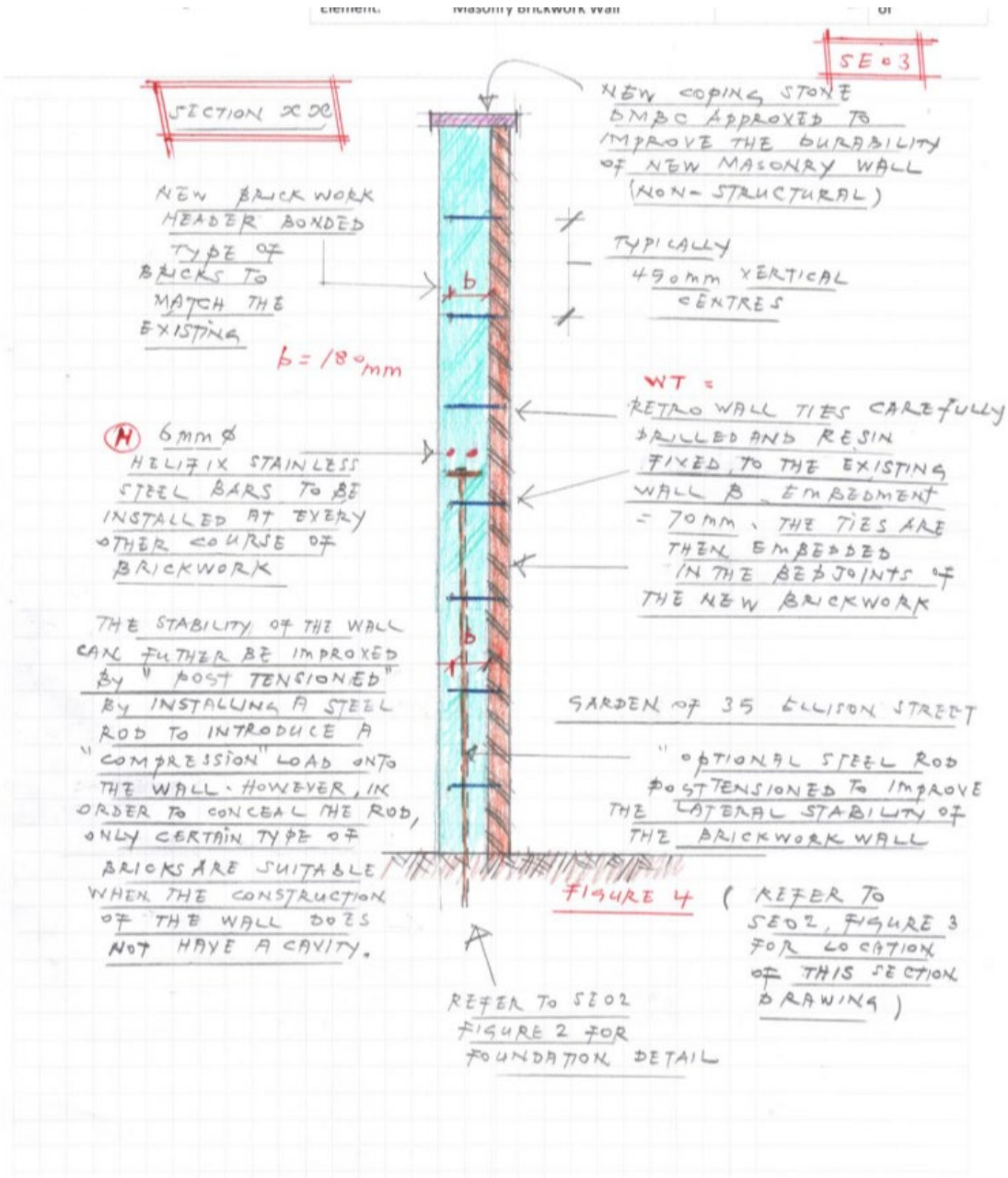
### Appendix 5 - Figure 2 - SE02



### Appendix 6 - Figure 3 - SE03



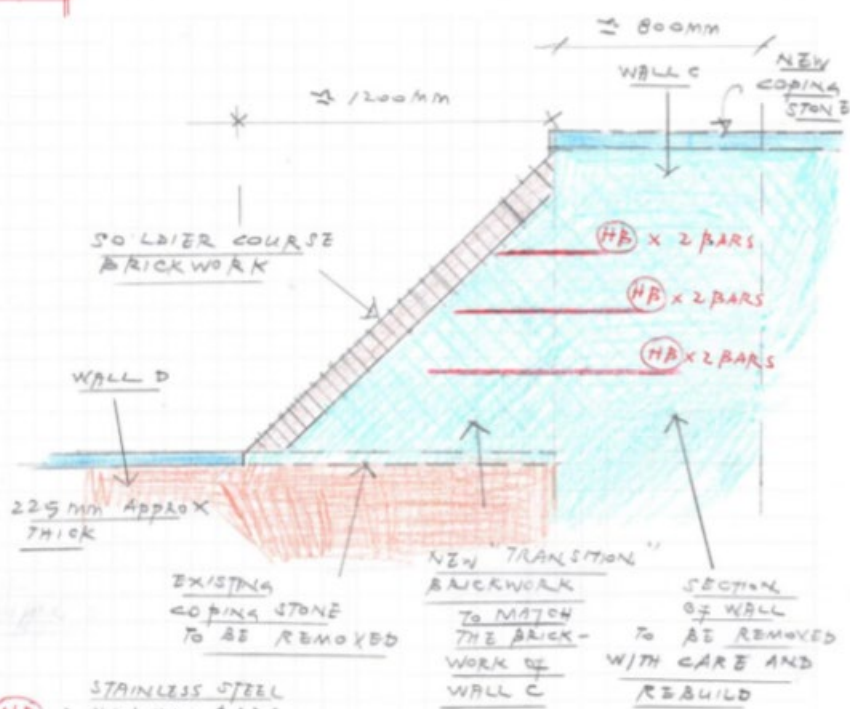
# Appendix 7 - Figure 4 - SE03





# Appendix 8 - Figure 5 - SE04

SE04



STAINLESS STEEL  
 (HB) = HB LITIX BARS  
 6mm φ, 2M²S OF BARS  
 PER BED JOINTS WITH RESIN  
 FIX - LENGTH OF BAR  
 TO SUIT

FIGURE 5