



Appeal Decision

Site visit made on 27 April 2022

by M Clowes BA (Hons) MCD PGCERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2022

Appeal Ref: APP/F4410/W/21/3286257

2 Rectory Gardens, Wheatley, Doncaster DN1 2JU

- 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 Andrew Muscroft-Gosden against Doncaster Metropolitan Borough Council.
 - The application Ref 21/01596/FUL, is dated 10 May 2021.
 - The development proposed is described as 'erection of two storey rear/side extension and associated works to include patio path and driveway re-paving, reinstatement of boundary fence/railings.'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Andrew Muscroft-Gosden against Doncaster Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal is against the Council's failure to determine the planning application within the relevant statutory timeframe. However, I have had regard to the Council's appeal statement, which provides clarity in terms of the reasons why the Council would have refused planning permission for the proposed development, had it been able to do so. These have formed the main issues below.
4. The submitted documents lack information regarding certain aspects of the proposal, namely the proposed fences, railings and gates. I will deal with these aspects in more detail in my decision. Overall, I am satisfied that I have enough information to determine the appeal proposal.

Main Issues

5. The main issues are the effect of the proposed development upon:
 - i) the character and appearance of the area, including the Thorne Road Conservation Area; and
 - ii) the living conditions of the occupiers of 4 Rectory Gardens with particular regard to privacy.

Reasons

Character and Appearance of the Area

6. The appeal site relates to a detached 2 storey dwelling occupying a spacious corner plot at the junction of Rectory Gardens and Thorne Road. The property is set back with garden to all sides and there are a number of mature trees behind low boundary walls to the road frontages.
7. The site lies within the Thorne Road Conservation Area (CA). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act), I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA lies in its buildings of architectural interest, namely 20th century buildings, boundary walls and hedgerows and trees which contribute to the green, spacious surroundings.
8. The Council considers the proposed 2 storey rear extension to be subordinate to the host dwelling and appropriate to the size of the plot and character of the CA. Based on all that I have seen and read, I see no reason to disagree with this point of view.
9. The description of development set out on the planning application and appeal forms refers to the reinstatement of boundary fences and railings. However, there are no complete elevation drawings and corresponding block plan indicating the precise position, form and height of the proposed fences or railings before me. The indicative 3D views provided, whilst appearing to include boundary treatments are incomplete and it is not clear which part would consist of a fence and which part would be railings. Whilst reclaimed railings were present on site I cannot assume where they are to be positioned or that they would reflect the position approved by the previous Inspector (appeal reference 3249282). Furthermore, there is no information to advise how any of the proposed boundary treatments would relate to the historic wall of the former 19th century Highfield House, which bounds the site to the north-east. This wall has important evidential and aesthetic value to the character and appearance of the CA, and it is important that this is not harmed by any new development.
10. I saw that close boarded fences were not characteristic of the street scene in either Rectory Gardens or this part of Thorne Road. Stone or brick walls are predominant and railings of varying types are frequent. A new fence therefore has the potential to be discordant within the street scene. Matters of this importance could not be appropriately regulated by the imposition of a condition.
11. I note the appellants' final comments suggest that the fences are to be 2m in height and that consent is sought for iron gates to match the railings approved by the previous Inspector. This is new information introduced at a late stage that may prejudice interested parties who were not availed of this information at the time of the planning application. There are no details of the design or height of the proposed gates. Consequently, I have insufficient information to be certain that the proposed fences and gates would not detract visually from the street scene or that they would preserve or enhance the character and appearance of the CA, as required by the Act.

12. In the words of the National Planning Policy Framework (the Framework), even with the absence of detailed information, given the nature and the scale of the development, the harm caused to the setting of the CA would be likely to be less than substantial, but nevertheless important. The appellant has raised matters relating to safety, security and the need for crime prevention measures at the appeal site. Nevertheless, the historic environment has strong protection through the planning system. There are likely to be sensitive schemes that could achieve the desired safety and security improvements without causing visual harm. The benefits do not outweigh the less than substantial harm in this instance and the proposal would fail to comply with the Framework as a result.
13. The scheme additionally includes a proposal for the re-paving of a patio, driveway and path. The appellant considers that these works do not require permission. Even if this were to be the case, the works are included in the description of development and no accompanying details have been provided for me to consider.
14. The proposed extension by virtue of its size, position and overall form would not be harmful to the character and appearance of the CA. Nevertheless, it has not been demonstrated that the proposed fences, railings and gates would preserve or enhance the character and appearance of the CA, as required by the Act. The proposal would also conflict with Policy 37 of the Doncaster Local Plan (2021) which amongst other things, seeks to ensure that proposals do not detract and that they preserve or enhance the heritage significance of a CA.

Living Conditions

15. The Council have referred me to the Doncaster Council Development Guidance and Requirements Supplementary Planning Document 2015 (SPD). Amongst other things, it aims to ensure that new development considers adjoining land uses and does not impact significantly on the amenity of neighbours.
16. The Council considers that the proposed 2 storey rear extension would not be harmful to the amenity afforded to the neighbouring Care Home and based on all that I have seen and read, I see no reason to disagree with these findings.
17. The SPD advises that habitable rooms that overlook a neighbouring garden should normally be at least 10m from the boundary. The Council advise that the proposed extension would be 8.5m from the boundary with No 4 Rectory Gardens but the appellant disputes the Council's measurement. Even if the distance is 10m and the development would comply with the SPD as suggested by the appellant, I am mindful that this is guidance.
18. During my visit I observed the particular layout of the site and position of the proposed development. The proposed extension would result in windows serving habitable rooms including a kitchen and bedroom, being positioned closer to the boundary with No 4 Rectory Gardens than is currently the case. Direct overlooking of the habitable windows in the single storey rear outrigger and the rear yard area of No 4 could therefore occur. This yard is the only private amenity space afforded to the neighbouring dwelling. Even if a fence were to be erected along the shared boundary as the appellant suggests, it would only prevent overlooking from the proposed ground floor windows. It would not mitigate the impact of the proposed first floor bedroom window in particular, and I find there would be a harmful loss of privacy as a result.

19. The proximity of the proposed extension and in particular the position and height of the proposed first floor rear bedroom window, would result in an adverse effect upon the living conditions of the occupiers of No 4, with regard to privacy. Consequently, conflict is found with Policy 44 of the Doncaster Local Plan (2021) which seeks to protect existing amenity and not impact significantly on the privacy of neighbours, an objective shared with the SPD (2015).

Other Matters

20. The appellant cites discrimination by the Council who he suggests failed to engage with the appellant during the determination process and failed to determine the planning application in a timely manner. Having due regard to the Public Sector Equality Duty contained within the Equality Act 2010, there is no evidence before me that any discrimination has occurred. Concerns over how the Council dealt with the planning application are a matter for the main parties.

21. The appellant suggests that the Council has permitted several similar or identical developments in surrounding CAs. It is unclear which element of the proposed development the appellant is referring to, and I have not seen anything to adequately support this suggestion. I cannot draw any comparison to the appeal development from unspecified examples. Regardless, I have considered the proposal on its own merits with regard to the main issues of the case.

22. Reference is also made to the ability to erect means of boundary enclosures without the need for planning permission. However, there is no evidence before me to suggest that there is a reasonable likelihood that the appellant would implement such permitted development rights were I minded to dismiss the appeal on other grounds. In any event, given the lack of information provided in respect of the proposed fence and railings I cannot make a comparison with what may be permissible under permitted development rights and whether the degree of harm would be less. These matters do not affect my overall findings.

Conclusion

23. As a whole, there are no material considerations that would warrant taking a decision otherwise than in accordance with the development plan. I conclude that the appeal should be dismissed.

M Clowes

INSPECTOR