



## 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: 27 May 2022**

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**Appeal Ref: APP/F4410/W/21/3289887**

**Fairwinds, Hatfield Road (A1146), Thorne, Doncaster DN8 5RD**

- 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 and Mrs Michael and Sandra Cleary against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 20/02300/FUL, dated 18 August 2020, was refused by notice dated 22 September 2021.
  - The development proposed is described as 'replacement of dwelling, 2 storey and demolition of existing dwelling, single storey within 3 months following erection and habitable state of new dwelling.'
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### Decision

1. The appeal is dismissed.

### Applications for Costs

2. An application for costs was made by Mr and Mrs Michael and Sandra Cleary against Doncaster Metropolitan Borough Council. This application is the subject of a separate decision.

### Procedural Matters

3. The Council's decision was made in relation to the Doncaster Council Core Strategy 2012 and the Doncaster Unitary Development Plan 1998. These plans were superseded by the Doncaster Local Plan (the Local Plan) when it was adopted in September 2021, the day after the decision was issued. My decision is based on the policies within the Local Plan (2021) since it is the adopted development plan at the time, and the National Planning Policy Framework (the Framework). Whilst some paragraph numbers have changed and sections added, the substantive elements of the since revised 2021 Framework, as they relate to the main issues of the case, have not changed from the previous iteration.
4. There are slight variations in the size of the existing development as shown on the site plan and floorplans. Notwithstanding the discrepancies, I am satisfied that I have sufficient information before me to properly assess the impact of the proposed development in regard to the main issues.

### Main Issues

5. The main issues are the effect of the proposed development upon the character and appearance of the area and whether it would be at an unacceptable risk of flooding.

## Reasons

### *Character and Appearance*

6. The appeal site relates to a detached bungalow occupying a large plot set back from Hatfield Road (A1146), behind tall conifer hedging and timber gates. The Doncaster to Scunthorpe railway line segregates the appeal site visually from the built environment of Thorne. The boundary with the appeal site is marked with intermittent native planting some of which is deciduous. Hatfield Road is generally bounded by native hedgerows with additional tree planting, beyond which lie agricultural fields to either side. Other than the appeal site and the Red Myle Farm complex to the south-west, there are very few buildings along this northern-most part of Hatfield Road. As a result, the street scene has a distinctly verdant, open and undeveloped rural feel which contributes positively to the character and appearance of the area.
7. Subject to certain criteria, Policy 25 of the Local Plan (2021) supports proposals for the replacement of a dwelling within the Countryside Policy Area (CPA). The main parties agree on satisfaction of all but one of those criteria which sets out that replacement dwellings should be positioned on a comparable footprint, and in close proximity, to the original building. In addition, volume increases are restricted to 40% above that of the original building. The 'original' building is defined as its floorspace and volume when it was constructed or as it was on 1 July 1948, whichever is the latest. I agree therefore, that the existing conservatory should not be included in the floorspace and volume calculations for the existing dwelling.
8. Being erected on land immediately behind the existing bungalow, the appeal scheme would be in close proximity thereto. Despite the discrepancies between the floor and site plans, it is apparent that the footprint of the proposed dwelling would be larger than the original, approximately 19.6% as cited by the appellant. I would not consider such an increase comparable.
9. The Council advises that the volume of the original dwelling is 515m<sup>3</sup> whilst the replacement dwelling would have a volume of 860m<sup>3</sup>, an increase of 66.9%. The appellant calculates an increase of 47%. Either way, the proposed dwelling would exceed the maximum 40% permissible by Policy 25. As the replacement dwelling is not of a particularly exceptional quality, or innovative or energy efficient design, I see no reason to depart from the policy's maximum expectations.
10. The 40% maximum standard is only applicable where the development would have a significant impact on the character of the countryside. The existing dwelling being a bungalow, has a horizontal emphasis that nestles into the land. Although the proposed dwelling would be set further back into the site it would, by virtue of the addition of a second floor and tall hipped roof, have a significantly greater visual presence than the existing dwelling. Whilst the hedgerow to the front boundary with Hatfield Road would partially screen the scheme, there is no guarantee that it would remain in the future.
11. The ridge of the roof of the existing dwelling can be seen behind the front hedgerow from Tudworth Road (A614) which lies beyond Hatfield Road to the south-east. Notwithstanding the appellants 3D visual images of the existing and proposed dwelling, I find the proposal would substantially increase the level of built development on the site, thereby reducing the open feel of the

countryside in public views from both Tudworth Road and Hatfield Road. In addition, public views can be obtained from the railway line to the north, which is raised up on an embankment above the appeal site. The dwelling due to its height and scale would be visually intrusive, and a significant and adverse urbanising impact on the character and appearance of the countryside would occur as a result.

12. In isolation, the design of the proposal would not be inappropriate. The harm would arise when this is considered along with its overall scale and its increase in both a policy and site specific sense. The proposal was evidently reduced in size through discussions between the appellant and the Council but, as I have found, these changes did not go far enough to make the appeal scheme acceptable. In addition, there are more than likely other ways of achieving the desired outcome of a larger 2 storey dwelling, that would meet future accessibility requirements and avoid the harm that I have identified.
13. Policy 25 of the Local Plan (2021) is up to date having recently been found sound by an Inspector. The comparative approach to extensions or replacement dwellings in the countryside is a relatively common planning practice, enabling the impact of new development to be proportionate to the visual impact of existing or original development. Paragraph 9.9 of the supporting text to Policy 25 is clear that the maximum permissible 40% volume increase for a replacement dwelling, is inclusive of any permitted development. I do not therefore share the view that theoretical extensions permissible under permitted development rights, should be added to the size of the existing dwelling before the volume is calculated. In any case, Policy 25 is clear in referring to the original building as a comparable.
14. I attach limited weight to the guidance in the Development Guidance and Requirements Supplementary Planning Document (2015) given the newness of the Local Plan (2021) and its focus on sites within the Green Belt which is not applicable in this instance.
15. Red Myle Farm is the nearest neighbouring dwelling to the appeal site. It differs from the proposed dwelling in that it is double fronted with a narrower overall frontage and of more modest proportions, set further back from Hatfield Road. Examples of dwellings at the southern end of Hatfield Road have an entirely different context as they are grouped with other buildings and are physically and visually detached from the appeal site.
16. The extensions at Firtrees and Chase Farm were a different form of development to the replacement dwelling proposed here. Hill View Farm (cited by the Council), The Bungalow, The Ripple and Burntwood Lodge are all located within the Green Belt rather than the CPA. The Nursery, Sunholme and East Lings Bungalow were permitted under a different local planning policy context, as were all of the other examples referenced above. The examples are not therefore comparable to the development before me. In addition, the lack of objections from statutory consultees and neighbours, does not justify development that would be harmful to the character and appearance of the area.
17. I find the proposed dwelling would result in a harmful effect on the character and appearance of the area. As such it fails to accord with Policy 25 of the Local Plan (2021) which amongst other things, aims to control development in the countryside to prevent harm to the openness or character of the area. The

proposal would also fail to comply with paragraph 174 of the Framework, which requires proposals to enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

### *Flood Risk*

18. Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). The site is located within Flood Zone 3, an area with a high probability of flooding.
19. The Framework nor Planning Practice Guidance (PPG) explicitly state whether proposals for a replacement dwelling require a sequential test of alternative sites outside of the flood risk area to be carried out. Neither does Policy 57 of the Local Plan (2021). The Council's Development and Flood Risk Supplementary Planning Document (SPD) 2010 states that replacement dwellings will not require a sequential test provided that, they do not significantly increase the footprint or occupancy of the building. As discussed above, I consider that the footprint of the proposed dwelling would be considerably larger.
20. Notwithstanding the guidance contained in the SPD, and although the proposed dwelling would have a larger footprint, the proposed development would not increase the number of dwellings at the site. A new vulnerable use would not be created in the floodplain as a result of this proposal. Even if the size of the dwelling and therefore occupancy would increase, the vulnerability of the occupants to flood risk would be reduced overall, given the provision of first floor accommodation which is of particular benefit. Furthermore, an amended Flood Risk Assessment (FRA) has demonstrated that the proposed dwelling can be made safe through the inclusion of resilience measures which were accepted by the Environment Agency.
21. For these reasons, although the proposed development would not strictly accord with the SPD (2010), I am mindful that it is guidance. The proposal would comply with the more recent Policy 57 of the Local Plan (2021), which seeks to steer new development away from areas at the highest risk of flooding. The proposal would also accord with section 14 of the Framework which seeks to ensure that development is appropriately flood resistant and resilient. As these policies are more up to date they take precedence, as set out under Section 38(5) of the Town and Country Planning and Compulsory Purchase Act. I am satisfied therefore, that the proposed development would not be at an unacceptable risk of flooding.

### **Other Matters**

22. I understand the appellants' desire to have an adaptable home to enable independent living if health circumstances are to change. I must have due regard to the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic such as disability, and people who do not share it. I do not doubt the appellants' intentions to provide an adaptable home for their possible future needs. However, achieving prospective accessibility benefits, do not appear to be inherently reliant on the scheme before me.

23. Whilst Policy 45 of the Local Plan (2021) supports proposals for new housing where they meet the Nationally Described Space Standards, the Council have demonstrated that the proposed dwelling would substantially exceed these requirements. Whilst it is correct that persons with a protected characteristic should not be expected to have a reduced standard of living accommodation compared to those who do not share such characteristics, possible future medical needs in this instance do not outweigh the harm identified to the character and appearance of the area.
24. Although adaptive, the proposed dwelling is not required to meet particular medical needs at this point in time, and it would not provide specialist housing for older or disabled people as defined in the PPG. Having carefully considered the potential benefits of the scheme, dismissal of the appeal is a proportionate response to the well-established planning objectives of protecting the countryside, and I am led to a dismissal of the appeal.
25. Reference is made to the fallback position of adding a first floor extension under permitted development rights. These permitted development rights are subject to a prior approval process. They do not crystallise until that procedure has been completed and granted. As the prior approval process has not been completed, I attach limited weight as a fallback position. In addition, there is no evidence before me that would suggest that there is a reasonable likelihood that the appellant would implement these permitted development rights were I minded to dismiss the appeal, given their preference for a replacement dwelling. This matter does not affect my overall findings.
26. Concerns have been raised in respect of the Council's approach to the proposal and determination of the application. This is largely a matter between the appellant and the Council, although I have considered it in so far as it is relevant within the associated decision on the matter of costs.

### **Conclusion**

27. Whilst I have found in the appellants favour in regard to the second main issue, this would be a lack of harm which by definition cannot be used to weigh against it. In regard to the first main issue, the appeal scheme would conflict with the development plan and, there are no material considerations worthy of sufficient weight to indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

*M Clowes*

INSPECTOR