



Appeal Decision

Site visit made on 12 September 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/F4410/W/23/3319309

24 The Circle, New Rossington, Doncaster DN11 0QR

- 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 Jamie Walker against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 22/02566/FUL, dated 22 November 2022, was refused by notice dated 7 February 2023.
 - The development proposed is 2No. shops with 2No. flats above.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of the occupiers of 23 and 24 The Circle with particular regard to outlook, privacy and the provision of outdoor amenity space; and
 - whether the proposal would provide acceptable living conditions for the future occupiers of the flats proposed with regard to the provision of outdoor amenity space.

Reasons

Character and appearance

3. The appeal site is an area of land that previously formed part of the rear garden area of 24 The Circle. It is bound by a low wall to the north and west and a close boarded fence to the east and south. It is located on the corner of Ellis Crescent and King Avenue. No 24 is a semi-detached dwelling that fronts onto The Circle which forms part of a concentric ring of development, that contributes to a distinctive street layout.
4. The area is residential in character, although there is a church located in the southern part of The Circle and a parade of shops front onto King Avenue and Fowler Crescent to the north and northwest of the appeal site. Opposite the northern boundary of the site are dwellings that front onto Ellis Crescent, one of which is two storey and detached with the remainder being two storey terraces. Dwellings that front onto The Circle have large rear gardens that contribute positively to the open and spacious character and appearance of the area.

5. Whilst largely in keeping with the footprint, scale and massing of other two storey development in the surrounding area, the siting of the proposal would be at odds with the established pattern of development. It would damage the symmetry and character of the open and spacious rear gardens that make up the inner concentric ring of development that make The Circle distinctive.
6. The proposed development would be out of keeping with the density of the area, given that the built form would largely fill the depth of the appeal site. It would not respect the ratio of built form to open garden spaces that are present in the immediate vicinity. The presence of the built form would be overly dominant in the view when approaching The Circle from King Avenue and when moving along Ellis Crescent and Fowler Crescent towards the junction with King Avenue. It would be at odds with the appearance of the area, obstructing a visual appreciation of the locally distinctive character of the pattern of development.
7. I therefore find that the proposal would be harmful to the character and appearance of the area. It would be contrary to Policies 41, 42, 44 and 46 of the Doncaster Local Plan 2015–2035 (Adopted September 2021) (LP) and Policy R12 of the Rossington Neighbourhood Plan 2016-2032 Adopted May 2022. These policies seek, amongst other things, to ensure that proposals respect and enhance identity, character and local distinctiveness, respond positively to the context and character of existing areas and make a positive contribution to the area in which they are located.
8. The proposal would also be contrary to paragraphs 124 and 130 of the National Planning Policy Framework (the Framework). These seek to ensure that maintaining an area’s prevailing character and setting (including residential gardens) is taken into account and that developments are sympathetic to local character and history including the surrounding built environment and landscape setting.

Living conditions

9. In respect of separation distances between built form, the appellant has referred me to advice in the South Yorkshire Residential Design Guide (SYRDG). The Council has explained that the SYRDG has been revoked following the adoption of the LP in 2021. The revoked status of the SYRDG means that I give any conflict with it very limited weight in reaching my decision. Nevertheless, the SYRDG advises that where there is a back to side relationship a 45 degree test can be applied. However, the SYRDG also states that all built development facing a back window should be below the 25 degree line. I have no evidence before me to demonstrate whether the proposed built form would meet either of these requirements or not.
10. The proposed building would be much taller than the existing close boarded fence located along the boundaries with the garden areas of No 23 and No 24. Although the rear and side elevations of the proposal would be set off the southern and eastern boundaries slightly, the separation would be very limited. Despite the hipped roof design, the height and massing of the proposal would represent a dominant feature when viewed from the rear windows and rear garden area of No 23 and to significantly more extent No 24, which would be harmfully overbearing.

11. Two windows at first floor level in the proposed development, one serving a kitchen/living room and one serving a bathroom would directly face the rear garden area of No 24. The bathroom window could be conditioned to be obscurely glazed to avoid issues of overlooking. The appellant asserts that the kitchen/living room window is a secondary window and could also be obscurely glazed. However, this would leave only one window at the front of the flat to provide outlooks for future occupiers from the main living space, making the accommodation less attractive. In any case, the presence of two windows in such close proximity to the boundary, even if they were to be obscurely glazed, would appear dominant and result in a perceived loss of privacy.
12. First floor windows serving the bedrooms of both proposed flats would directly face the rear section of the garden area of No 23. The orientation of the proposed flats means that these windows would direct views away from the rear elevation of No 23 and the outdoor space directly outside the dwelling. Nevertheless, given the proximity of the windows to the boundary, future occupiers of the flats would have the opportunity to directly overlook the private rear garden space of No 23, resulting in a harmful impact on the privacy of existing occupiers.
13. The proposal would be sited on an area of land that was formerly part of the rear garden area associated with No 24. The appeal site has been separated off through the provision of a close boarded fence. This has resulted in the amount of rear garden space serving the occupiers of No 24 to be significantly reduced. Whilst the amount of rear garden space retained for No 24 would be out of keeping with the surrounding properties, it would be of a sufficient depth and area for day to day requirements such as sitting out, drying clothes and gardening.
14. Notwithstanding this, I find that the proposal would be harmful to the living conditions of the occupiers of No 23 and No 24 with regard to outlook and privacy. The proposal would conflict with Policies 10 and 44 of the LP. These policies seek, amongst other things, that developments provide an acceptable level of residential amenity for existing residents in terms of privacy and outlook. The proposal would also be contrary to paragraph 130 of the Framework which seeks to ensure developments create a high standard of amenity for existing users.

Future occupiers

15. LP Policy 44 states that housing proposals will be supported where there is adequate provision of amenity and garden space. No specific requirement in terms of size is identified in the LP. The proposal has limited space between built form and the site boundaries. A small triangular strip of land is identified to the rear of the proposed building. Due to the awkward shape and limited size, it would not be usable space. It also would not be private outdoor amenity space, given that the rear doors into the shop units are also accessed from this area. The future occupiers of both flats would therefore not have access to any external amenity space.
16. I have been referred to the presence of public open green space that forms the centre of The Circle in close proximity to the appeal site and other facilities such as the community sports village, leisure centre, allotments and bowling green which are all accessible by foot, bicycle, bus or private vehicle. Whilst access to these facilities and spaces would be a benefit to any future residents,

I do not consider that they are mitigating factors that would be sufficient to outweigh the harm caused by the lack of any outdoor amenity space on site.

17. I recognise that there may be space internally to provide facilities for clothes drying and that indoor house plants could also be grown by future occupiers. However, whilst gardening and clothes drying are two features of day to day use of outdoor amenity space, there are others such as being able to sit out that would not be possible.
18. I find that the proposal would fail to provide satisfactory living conditions for future occupiers, with particular regard to the provision of outdoor amenity space. It would therefore conflict with Policies 10 and 44 of the LP which seek, amongst other things, to provide an acceptable level of residential amenity for new residents and that housing proposals have adequate provision of amenity and garden space. The proposal would also be contrary to paragraph 130 of the Framework which seeks to ensure developments create a high standard of amenity for future users.

Other Matter

19. The parties agree that both proposed flats would meet the requirements of the Nationally Described Space Standards for a one bedroom dwelling for one person. Policy compliance in this regard is a neutral consideration and does not weigh either for or against the proposal.

Conclusion

20. I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework that indicate I should take a decision other than in accordance with it. Therefore, the appeal is dismissed.

G Dring

INSPECTOR