



## Appeal Decision

Site visit made on 7 November 2023

**by S Brook BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 January 2024**

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### **Appeal Ref: APP/F4410/W/23/3323446**

### **Land off Clay Lane West, Long Sandall, Clay Lane, Doncaster DN2 4QY**

- 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 N Griffiths of Ground Group against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 23/00051/FUL, dated 17 February 2023, was refused by notice dated 13 March 2023.
  - The development proposed is Erection of site boundary fence.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The appeal scheme had been completed at the time of my site visit. Nevertheless, I have determined the appeal based on the plans before me.
3. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. The main parties have had an opportunity to comment on the revised Framework and so have not been prejudiced by this change. I have thus had regard to the latest version of the Framework in determining this appeal.

### **Main Issues**

4. The main issues are the effect of the development upon:
  - (a) the setting of Nos 1-4 Clay Lane West, which are grade II listed buildings;
  - (b) pedestrian access through the site; and
  - (c) the biodiversity interest of the site.

### **Reasons**

#### *Setting of Listed Buildings*

5. Nos 1-4 Clay Lane West are two pairs of semi-detached houses of red brick construction under a slate roof. The dwellings have a consistent design, with decorative features, including ashlar stone sills and lintels to sash windows, arched brickwork features, and decoratively finished bargeboards. Their aesthetic interest results from this architectural detailing, while historic interest results from their origins as very early and high-quality examples of Council housing.

6. The immediate setting comprises the cottage grouping and associated gardens bound by low brick walls to the front. Beyond this, vacant land to the north and northeast contributes to an open rural aspect. Roadside hedgerows, particularly to the southwest, a lack of road markings and street lighting, as well as only limited sections of pavement, reinforce this rural character, which positively contributes to the significance of the setting of these listed buildings. However, the wider area also includes car parking and a number of large, dispersed industrial buildings, some of which include metal fencing to their perimeters.
7. In considering whether to allow the appeal and grant planning permission for development which affects a listed building or its setting, the statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
8. The appeal scheme has introduced metal fencing opposite No 4 Clay Lane West and extending northeast for a considerable distance. As a result of its design and materials, this type of fencing is industrial in appearance. It is positioned adjacent to the road, and it is exposed due to the lack of any mature vegetation. Given its proximity, it clearly falls within the setting of this group of listed buildings when viewed along the lane, and it harms the significance derived from their setting, by further eroding the rural character that contributes positively to it.
9. Boundary fencing of this type is not uncommon within the wider area. A section of such fencing is located at Long Sandall Lock car park, opposite No 1 Clay Lane West. However, while positioned close to the road and the listed buildings, much of the fencing at this car park is interspersed with mature vegetation which serves to soften and screen its industrial appearance when viewed in the context of these listed buildings. Other examples of this type of fencing are set back much further from the road, or are located further away, and so their impact on the immediate setting of these listed buildings is not comparable to the appeal scheme.
10. While large industrial units are also present in the wider area, in the vicinity of Nos 1-4 Clay Lane West, these buildings are set back some distance from the road or are screened by mature vegetation. In contrast, the appeal scheme fencing lies close to these listed buildings and for the reasons outlined above, it is harmful to the rural character of their immediate setting.
11. I understand that the land adjoining the appeal scheme lies within an Employment Policy Area and it may be re-developed for commercial purposes in the future. However, the details of such a scheme are not before me. I am required to determine the appeal based on the circumstances at the present time.
12. I am presented with a fallback position whereby the same height and design of fence could be erected utilising permitted development rights, which would require the fence to be re-positioned. No lawful development certificate is provided to this effect, nor any indication of the extent of any re-positioning. The proximity of the fence to the road and the listed buildings is a key factor in the harm I have identified to the significance of the setting of these listed buildings. As the fallback position would re-position the fence, I cannot be

certain that the harm resulting from this fallback position, would be the same as that resulting from the scheme before me.

13. The development harms rural character, negatively impacting on the significance derived from the setting of these listed buildings and so the setting is not preserved. This amounts to less than substantial harm. Both Policy 36 of the Doncaster Local Plan 2015-2035, September 2021 (LP) and paragraph 208 of the Framework require that this harm is weighed against the public benefits. I will return to this matter below.

#### *Pedestrian Access*

14. An informal footpath crosses the land north of the appeal site and the appeal scheme appears to block the alignment of this footpath where it previously joined the highway. However, I observed at my site visit that it remains possible to access this land at its southwestern edge, where it is possible to re-join this footpath. As such, pedestrian access through the site is achievable, albeit this does not appear to have been the intention when installing the fence. On this basis, the development does not conflict with LP Policy 17, which amongst other matters, requires the maintenance of existing pedestrian infrastructure.
15. LP Policy 18 requires that new development retains any public right of way, and where possible, this should be on the legally recorded alignment, unless a suitable alternative is established. It also requires unrecorded public paths to be treated in the same way. As noted above, alternative access exists for the affected informal footpath. Should this footpath subsequently be defined legally as a highway, then the Council's Footpaths Team confirms that separate powers exist to require removal of any part of the fencing that obstructs the legally defined route. As such, the development adequately responds to the requirements of this policy.

#### *Biodiversity Interest*

16. The site is within a Biodiversity Opportunity Area. These areas are selected as project areas for conservation work to assist in providing a coherent ecological network. The Council indicates that the fence could harm wildlife and ecological networks and without an overall ecological strategy for the adjoining land, the Council considers that it is not clear whether the fence will have a detrimental impact on local wildlife, on the basis that the fencing isolates the site from adjoining areas.
17. The development before me relates to the fencing only, not any re-development of adjoining land and must be considered on its individual planning merits. The fencing runs to the south-eastern boundary of the adjoining parcel of land and so it does not appear to fully enclose or isolate the adjoining land from its surroundings. The appellant states that no ecological information was requested by the Council at the planning application stage and there is little substantive evidence provided by the Council to demonstrate that the fencing has had any significant detrimental impact on local wildlife or ecological networks.
18. Consequently, the evidence before me has not demonstrated that the development has resulted in, or would result in significant harm to biodiversity interests and so I find no conflict with LP Policy 29, which amongst other

matters, requires that new development is of an appropriate type in terms of its location and impact on the ecological network. Nor do I find any conflict with Paragraph 180 of the Framework, which seeks to protect and enhance sites of biodiversity value.

### **Public Benefits**

19. The appellant suggests that a public benefit of the scheme is the prevention of unauthorised access onto the land, which is not safe. However, the appellant accepts that pedestrian access to the site remains possible and so these benefits are not achieved. Further, the safety risk could be addressed by alternative means, for example by remediating the safety risk directly, or by erecting fencing of an alternative design, as suggested by the Council. The latter option could equally deliver any public benefits associated with the prevention of unauthorised occupation of the site or fly tipping, albeit there is no evidence before me to suggest that these are persistent issues. As such, I give these public benefits only limited weight.

### **Other Matters**

20. A number of local residents have expressed a range of concerns in addition to those relating to the main issues, including, but not limited to the following: noise echoing from the fence, highway visibility, land ownership, harm to residential amenity, factual inaccuracies. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

### **Planning Balance and Conclusion**

21. Whilst I have not identified harm in relation to pedestrian access or biodiversity interests, the development would result in less than substantial harm to those heritage assets comprising Nos 1-4 Clay Lane West. As required by the Framework, I attach great weight to the conservation of these assets. For the reasons set out above, I afford only limited weight to the public benefits of the appeal scheme and so, they do not outweigh the harm identified. Therefore, the development conflicts with LP Policy 36.

22. Consequently, the appeal scheme would conflict with the development plan as a whole, and there are no other material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

*S Brook*

INSPECTOR