



Appeal Decision

Site visit made on 30 January 2024

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st February 2024

Appeal Ref: APP/F4410/W/23/3330843

3-5 Finkle Court, Thorne, Doncaster DN8 5TW

- 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 WPS Developments Ltd against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 21/03402/FUL, dated 16 November 2021, was refused by notice dated 14 August 2023.
 - The development proposed is described as 'Erection of a two storey detached building with pitched roof to accommodate 4 studio style apartments (Amended plans)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, the Government released an updated version of the National Planning Policy Framework (the Framework). As the changes do not affect the consideration of the main issues of this appeal, I have not sought comments on the revisions.

Main Issue(s)

3. The main issues in this appeal are as follows:
 - The effect of the proposal on the character and appearance of the area and whether it would preserve the significance of the Thorne Conservation Area (TCA).
 - The effect of the proposal on neighbouring uses and whether prospective future occupiers of the scheme would have suitable living conditions.

Reasons

Character and Appearance / Thorne Conservation Area

4. The appeal site is an undeveloped square plot of land. It is located within Finkle Court, a thoroughfare with a mix of commercial and residential uses. The appeal site is bound on either side by the gable ends of other buildings and a boundary wall to the rear.
5. The proposed plans include scant specific design details, such as site layout or external space. The written statements of both parties describe that the building would use all available land within the site other than a narrow gap

- between the buildings to either side. As such, there is nothing to indicate where bins would be stored day-to-day or placed on collection days.
6. This is of particular concern with regards to this main issue as on my site visit, I observed several wheelie bins were left on the pavement in the narrower section of the lane closer to Finkle Street. This had a harmful effect on the character and appearance of the area. With no space to store bins for the four properties, I can only ascertain that future occupiers' bins would also be stored on the street which would further harm the area. I have considered the appellant's suggestion that a management plan could be agreed via condition and attached to a grant of permission should the appeal succeed. However, there are no details on how this could work before me and with no available space demonstrated on the plans, I see no indication that a condition in this context would be a functional solution or pass the test of being reasonable.
 7. The appeal site is located within the TCA. From my observations on the site visit, the special interest and significance of the TCA is predominantly derived from the settlement's historic layout pattern. This includes the market place which would have historically formed a central activity and meeting point for trading and socialising, and the many alleyways and narrow streets which combine to create a distinctive pattern of development and strong sense of place. In addition, the relatively simple form, design and small scale of the commercial and residential buildings of the area are also notable positive contributors to significance.
 8. Finkle Court is set back from the main shopping streets and given the narrow intersection with Finkle Street it is not prominent when viewed from most positions in the TCA. The TCA Appraisal document identifies Finkle Court as a neutral contributor to significance, which neither enhances nor detracts from the character and appearance of the conservation area.
 9. The proposed elevation plan demonstrates that the building would broadly reflect others in Finkle Court in terms of scale, height and general layout. There are few details of materials, to which I note the Council's Design and Conservation Officer raised concern. However, agreeing further details by condition is not unusual and given the neutral contribution of Finkle Court to the significance of the TCA and I am satisfied this could resolve the outstanding issues in this regard. I note that the Council would have been open to agreeing conditions which would secure further details relating to finer design aspects of the front elevation in particular, such as coursing and sills. Given I am dismissing the appeal on other matters I have not considered this further, although generally speaking these could have resolved any outstanding concerns relating to the significance of the TCA identified by the Council.
 10. The appeal site was fenced off at the time of my visit and was somewhat overgrown and unkempt. Litter was evident, although I could see no evidence of anti-social behaviour. I agree it was unsightly, but this appeared to be due to a lack of maintenance and upkeep. While the design of the proposal is largely acceptable, assuming details of materials could have been agreed via condition, there are insufficient details to concur that it would create a vast improvement to the area or the TCA as the appellant contends, although it would preserve significance of the heritage asset.
 11. To conclude, the proposal would harm the character and appearance of the area due to a lack of formal bin storage area which would cause more bins to

be stored on the footpath. This would be contrary to policies 41 and 44 of the Doncaster Local Plan 2015 – 2035 (DLP) (adopted September 2021). These seek, among other things, to ensure new housing creates high quality residential environments through good design, including through satisfactory arrangements for the storage and collection of refuse, recyclable materials and garden waste. The proposal would also be contrary to paragraph 135 of the Framework which seeks to ensure development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

12. Conversely, I have found that the proposal would not harm the significance of the TCA. This would accord with policy 37 of the DLP, which advises proposals should not detract from the heritage significance of a conservation area by virtue of their location, layout, nature, height, density, form, scale, materials or design, among other things. This would also accord with paragraph 205 of the Framework, which advises that 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.

Neighbouring Uses and Living Conditions

13. Finkle Court includes a mix of single and two-storey buildings which are predominantly in commercial use on the ground floor while some first-floor levels include residential accommodation. The proposal for a two-storey building comprising four residential units would include sliding sash windows to front and rear elevations at ground and first floor level. The bottom half of all ground floor windows would be opaque.
14. My attention is drawn to the Transitional Developer Guidance (TDG) (April 2022) which advises on advisable separation distances as it relates to infill development to avoid harm from loss of daylight and overshadowing to occupiers of neighbouring buildings.
15. To the rear of the appeal site there are several flats and vehicular access from Belmont Terrace which includes a parking area. To the front, across the pedestrian walkway evidently there are flats above the commercial units. Given the lack of notable setback of the building from any of the site boundaries, the appellant does not dispute that the proposal would fail to achieve the advised separation distances to avoid harmful loss of daylight and overshadowing.
16. The addition of a two-storey structure in this location would introduce overshadowing of neighbouring properties, while to the rear, the space to the front of the accommodation would be overlooked by the proposal at first floor level where the windows would not be opaque. I understand that the space available is occupied by the building wholly, but this highlights the limitation of the site to accommodate a proposal such as this and to my mind would not justify these potential harms.
17. Moreover, there would be no outdoor amenity space for future occupiers of the proposal. Although I am informed that there is a park less than a five-minute walk away, this would not be a suitable substitute for private space in which to carry out standard household activities such as drying clothes or sitting in private. Evidently, there are also walks along the canal, a community woodland and a marina nearby. While these would no doubt provide a pleasant environment for future residents, they should be a supplement to, rather than

a substitute for, private amenity space. The high street is in close proximity to the appeal site, offering places to shop, eat and drink less than a minute away. However, the principle of the proposal in terms of location is not in dispute.

18. It is argued that many flats in urban areas do not include private amenity space. Be that as it may, I can only assess the proposal against contemporary planning policy and guidance unless material considerations indicate otherwise. As such, the existence of other properties without outdoor space does not constitute a reason to allow harm such as that identified in the preceding paragraphs.
19. Furthermore, policy 45 of the DLP states that in order to ensure homes are large enough for the intended number of inhabitants, all new housing should meet the Nationally Described Space Standard (NDSS) as a minimum. I am informed that for apartments intended for individual occupiers such as this, a minimum of 37m² should be available. The floor plans show clearly the space would be 33m². While not a huge shortfall, this is again deficient set against current planning policy. I note this is not disputed, but that the limits of the site are not conducive to offering the required space.
20. Taken together, the proposal would likely cause unacceptable harm to occupiers of adjacent properties with regards to a loss of daylight and overshadowing, while also not providing suitable living conditions for prospective future occupiers of the scheme by not providing private outdoor amenity space or enough living space. This would be contrary to policies 44 and 45 of the DLP, which seek to ensure developments must protect existing amenity and not significantly impact on the living conditions or privacy of neighbours or the host property. The proposal would also be contrary to the Framework paragraph 135 which states that development should provide a high standard of amenity for existing and future users, and guidance in the TDG.

Other Matters

21. The appellant has pointed out that the proposal would provide low-cost accommodation, while they have also evidently carried out research into the lack of rental accommodation nearby. While lower cost rental accommodation would no doubt be welcomed, there is no evidence before me to indicate that the Council has a requirement for this type of housing. Although it is asserted that there is a 'great demand in these urban locations', this is somewhat of a sweeping generalisation which is unsubstantiated in the context of this appeal while there is no agreement before me regardless to secure the properties as affordable housing in perpetuity and to be managed by the Council. They would be rented or sold on the open market without this control in place. However, the addition of four units of housing to the Council's existing stock is worthy of some positive weight in the planning balance, albeit this would be limited.
22. The appellant advises they would be open to suggested amendments to the scheme to make it acceptable. However, as the 'Procedural Guide: Planning Appeals – England' advises, the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage. It is not my role to suggest amendments and as such this has not formed part of my decision-making process.

Conclusion

23. The proposal would harm the character and appearance of the area, would harm the living conditions of neighbouring occupiers and would not provide suitable living conditions for future occupiers. As such it would conflict with the development plan taken as a whole as well as the Framework and TDG. I have taken into account the benefits of the scheme, although the weight attributed to these would not outweigh the harm. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR