Appeal Decision

Site visit made on 1 February 2016

by Sarah Housden BA (Hons) BPI MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 March 2016

Appeal Ref: APP/F4410/W/15/3130464
44 Bawtry Road, Doncaster, South Yorkshire DN4 7AZ

- 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 Darryl Barker, Albermarle Homes against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 14/02590/FUL, dated 24 October 2014, was refused by notice dated 14 April 2015.
- The development proposed is ‘erection of 2 detached houses following demolition of existing detached garage to No 46 on approximately 0.2 ha of land and erection of pitched roof garage /extension to side of No 46. Being resubmission of previously withdrawn application Ref 14/00094/FUL.

Decision

1. The appeal is dismissed.

Costs

2. An application for costs was made by Mr Darryl Barker, Albermarle Homes against Doncaster Metropolitan Borough Council. That application is the subject of a separate decision.

Procedural Matters

3. The Council withdrew the Bessacarr Conservation Area Development Control Guide Supplementary Planning Document (DCG SPD) on 2 July 2015. The advice in the former DCG SPD is therefore no longer a material consideration in the determination of this appeal. In making their final comments on the appeal, both parties have had an opportunity to comment on the implications of the withdrawal of the former DCG SPD for this case and I have therefore not sought any further representations from the parties on this matter.

4. The Doncaster Development Guidance and Requirements Supplementary Planning Guidance (DG&R SPG) was adopted on 2 July 2015. The DG&R SPG has been subject to consultation and formally adopted by the Council. However I have not been supplied with a copy and it has not had a bearing on the outcome of this appeal.

5. I am aware that the appellant sought to have the appeal determined by means of a hearing. However, the issues raised in this appeal are straightforward and I am satisfied that there is sufficient evidence based on the information from the parties and my site visit to determine the appeal through the written
representations procedure. A Statement of Common Ground (SOCG) was submitted with the appeal, in anticipation of the hearing procedure. However this was unsigned and therefore can be afforded little weight in the determination of this appeal.

6. Although the address of the appeal site is given as 44 Bawtry Road it also includes part of the garden and the access at No 46 Bawtry Road and I have determined the appeal on that basis.

Main Issues

7. The main issues in this case are:
   - Whether or not the proposed development would preserve or enhance the character or appearance of the Bessacarr Conservation Area;
   - The effect on the living conditions of adjoining occupiers with regard to noise and disturbance;
   - The effect on highway safety having regard to the free flow of traffic on Bawtry Road and Ellers Road.

Reasons

8. The appeal site lies within an established residential area approximately 5km to the south-east of Doncaster town centre. It comprises parts of the rear gardens of Nos 44 and 46 Bawtry Road (Nos 44 and 46), a semi-detached pair of houses located close to the junction of Bawtry Road and Ellers Road. The proposal involves the erection of two detached houses which would be accessed via a widened driveway from the existing access to No 46. The detached garage at No 46 would be demolished and replaced with an extension to the side of the house.

Whether or not the proposed development would preserve or enhance the character or appearance of the Bessacarr Conservation Area

9. The Bessacarr Conservation Area covers a substantial length of Bawtry Road and sections of the side roads including Ellers Road. The Bessacarr Conservation Area Appraisal (2005) (CAA) indicates that its significance derives from the well detailed period properties set within substantial plots, the layout of dwellings set back from the road in a relatively uniform building line and generous tree and hedge planting to property boundaries. This creates a low density, open and spacious character and appearance within an arboreal setting.

10. Based on what I saw at the site visit, I agree with the assessment in the CAA. The mature planting and trees to garden boundaries, the spacing between properties and their position set back from the road create an established and wooded character and an attractive residential environment. Whilst development on Ellers Road is more mixed in type and design with less separation distance between dwellings and fewer trees, it reflects the low density and pattern of development on Bawtry Road. The development of backland plots to the rear of existing frontage development has taken place at a number of locations along Bawtry Road and on Ellers Road, in the context of the guidance in the former DCG SPD.
11. In the exercise of planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Paragraph 132 of the Framework 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.

12. Policy CS15 of the Doncaster Core Strategy 2011 – 2028 (2012) (CS) seeks to ensure that new development preserves, protects or enhances the historic environment and Policy CS16 of the CS seeks to enhance the Borough’s landscape and trees by retaining and protecting appropriate trees and hedgerows. The site is within a Residential Policy Area where saved Policy PH11 of the Doncaster Unitary Development Plan (1998) (UDP) permits new housing where it would not be detrimental to the character of an area and tandem or backland development would not result in over intensive development. Saved Policy ENV25 of the UDP requires new development to preserve or enhance the character or appearance of Conservation Areas.

13. The Residential Backland and Infill Development Supplementary Planning Document (2010) (RBI SPD) sets out general design requirements for backland dwellings. These include that they should be subservient to the frontage property and in areas where large gardens are a defining characteristic of the area, usually where frontage development predominates, piecemeal backland development will usually be resisted unless in exceptional circumstances where overlooking, noise and traffic disturbance, loss of amenity, cramping and the impact on local character can be satisfactorily addressed.

14. The appeal site is viewed from both Bawtry Road and Ellers Road and the proposed dwellings would be seen in the context of development on both roads.

15. Although views of the rear gardens of Nos 44 and 46 are partly obscured by the semi-detached pair of houses, a sense of spaciousness is created by the lack of buildings or structures to the rear. The proposed long straight access drive would open up views of the proposed new dwellings at the rear of the site. Due to the falling ground levels from Bawtry Road and the separation distance of approximately 37 metres between the existing and proposed dwellings, they would not appear dominant or overbearing in relation to the host semi-detached pair. However, the new dwellings together with the new boundary wall and fence to the rear of Nos 44 and 46 would introduce built development where none existed previously and would create a more enclosed layout which would diminish the open and spacious setting of the existing houses.

16. When viewed from Ellers Road, the gardens to the rear of Nos 44 and 46 create an undeveloped backdrop to the rear of Nos 2a, 2, 4 and 6 Ellers Road. With the exception of No 4, these are single storey detached properties separated by narrow gaps. When approaching along Ellers Road from the south–west, due to their height, depth and siting, the proposed dwellings would protrude above these properties and would be visible behind and between them. This would close the gaps between the dwellings on Ellers Road, diminishing the low density feel and sense of spaciousness that is an intrinsic part of the character and appearance of the Conservation Area. The new boundary wall and fence to
the side and rear of Nos 44 and 46 would also be visible from this direction, further eroding the open character of the area.

17. I accept the appellant’s point that the plot sizes of the proposed dwellings reflect those of more recent backland dwellings to the south of Bawtry Road which are visible from vantage points such as Ellers Avenue. I saw a number of backland dwellings at my site visit including Nos 36a and 38a, Nos 52a, 54a and 54b and Nos 64a and 66a Bawtry Road and 3a and 5a Ellers Avenue. In some locations this has created a more built up and developed appearance, particularly where the development is viewed from more than one road such as Ellers Road and Ellers Avenue. However, the established low density character and spacious layout that is an intrinsic part of the character and appearance and significance of the Conservation Area as a whole has not been compromised. The appeal dwellings would be seen in the context of development on Bawtry Road and in close proximity to the dwellings on Ellers Road and would diminish the spaciousness and openness of the Conservation Area which would be harmful to its character and appearance.

18. The Council’s Tree Officer considers that none of the trees to be removed from the site are worthy of protection in their own right and that the replacement trees along the northern boundary of the site would be an improvement on the existing planting and the landscaping scheme would compensate for the loss of trees. There would also be sufficient distance between Plot B and the common boundary with No 42 to safeguard the existing vegetation in the garden of No 42. The removal of vegetation would diminish the garden character to the rear of Nos 44 and 46, but the proposals for replacement planting would improve the provenance and quality of species. However, this would not outweigh the harm that would be caused to the character and appearance of the Conservation Area.

19. For the reasons outlined above, I conclude in relation to the first main issue in this case that the proposal would fail to preserve or enhance the character or appearance of the Bessacarr Conservation Area as a designated heritage asset. Accordingly, the proposal would conflict with the statutory test of preservation or enhancement and with Policy CS15 of the CS and saved Policies ENV25 and PH11 of the UDP and the advice in the Framework. There would also be conflict with the guidance in the RBI SPD which is permissive of backland development only where the impact on local character is satisfactorily addressed.

20. The impact of the proposal would be relatively localised and in my view the harm to the Conservation Area identified above would be less than substantial. The Framework makes clear in paragraph 134 that where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal.

21. The development would be in an accessible location within walking distance of a foodstore and other facilities and would contribute to the supply of housing, albeit on a limited scale. In terms of economic benefits, jobs would be created during construction and new residents would spend money in local businesses. The proposal would be an efficient use of land. However, to the extent that these constitute public benefits, I do not consider that they outweigh the harm that would be caused to the significance of the Bessacarr Conservation Area.
and I attach considerable importance and weight to the harm that would be caused.

**Living conditions**

22. The dwellings would be served by an access drive which would run along the side boundary of No 48 Bawtry Road (No 48) and to the rear of Nos 2 and 2a Ellers Road. The reason for the Council’s concerns about noise and disturbance is not specifically identified but could include vehicles passing in close proximity to the common boundaries and rear gardens of these properties and activity from the use of the garden areas of the new dwellings.

23. Traffic on Bawtry Road and Ellers Road already creates a degree of noise and disturbance in the area. Noise from moving vehicles would be in close proximity to the rear gardens of No 48 and Nos 2a, 2 and 4 Ellers Road but the number of vehicle movements generated by two dwellings would be limited and unlikely to create significant levels of noise and disturbance. The site comprises existing gardens and could therefore already generate activity in close proximity to the adjoining properties. As such, I consider that the proposal would not cause material harm to the living conditions of the occupants due to noise and disturbance.

24. I conclude in relation to the second main issue in this case that the noise and disturbance generated by the passing of vehicles or the use of the gardens of the proposed dwellings would not cause material harm to the living conditions of adjoining occupiers. As such, there would be no conflict with Policy CS14 of the CS or saved Policy PH11 of the UDP which amongst other things seek to ensure that development does not have an unacceptable effect on the amenity of occupiers of nearby properties.

**Highway safety**

25. The existing driveway serving No 46 would be widened to enable two vehicles to pass, allow sufficient space for emergency vehicles to access the site and provide improved visibility onto Bawtry Road. Turning and parking arrangements for the existing and proposed dwellings would be satisfactory. Three dwellings would be served from the access in compliance with the South Yorkshire Residential Design Guide which permits a maximum of five dwellings to be served from a private drive.

26. However, the entrance to the access drive is in front of the right turning lane for traffic turning right into Ellers Road at the signal controlled junction. The Council’s concerns, shared by local residents, is that there would be potential for conflict between vehicles turning right out of the appeal site and vehicles waiting at the lights to turn right into Ellers Road. In addition, it is argued in representations that the proposal would increase traffic and congestion on Bawtry Road.

27. The appellant’s evidence, based on trip rate predictions indicates that the level of traffic generated by the proposed development would have no material adverse impact on the free flow of traffic or highway safety on Bawtry Road or at the junction with Ellers Road. It is estimated that the additional level of traffic generated by the proposal would be in the order of two two way movements in each of the peak hours. There is nothing in the evidence to demonstrate that this number of vehicle movements would increase levels of
traffic on Bawtry Road to the extent that highway safety would be compromised. At busy periods drivers wishing to turn right onto Bawtry Road would be likely to turn left into Bawtry Road and use the U turn at the A638/Doncaster Dome junction nearby.

28. I conclude in relation to the third main issue in this case that there is nothing in the evidence before me to suggest that the proposed development would interfere with the free flow of traffic or adversely affect highway safety on Bawtry Road or at the junction with Ellers Road. Accordingly, there would be no conflict with Policy CS14 of the CS which seeks to ensure that adequate provision is made for access and states that planning permission will not be granted for development which interferes with the free and safe flow of traffic. In coming to this view, I have also had regard to the lack of objection from the Highway Authority.

Other Matters

29. In its decision notice, the Council has referred to the potential for the proposed development to set a precedent for other similar proposals, with reference to the former DCG SPD which has since been withdrawn. The appeal is being dismissed based on the circumstances of the case and other proposals would fall to be considered on their merits in accordance with the statutory test, the Framework, the policies in the Development Plan and the advice in the RBI SPD.

30. I have given careful consideration to the point made by the appellant that a precedent has already been set by the other backland developments on Bawtry Road and Ellers Road, some of which I have referred to and dealt with in the first main issue in this case. However, I consider that the location and context of the appeal site is different from other sites which have been drawn to my attention, since it is seen in the context of development on both Bawtry Road and Ellers Road. The appellant has referred me to an appeal decision where a backland dwelling was allowed at No 110 Bawtry Road, however as this was assessed against the provisions of the former DCG SPD, it was determined in accordance with different guidelines.

31. In any case, I have assessed the proposal on its merits and against the provisions of the CS, UDP and advice in the RBI SPD and conclude that it would be harmful to the openness and spacious layout of development that is part of the significance of the Conservation Area and would neither preserve nor enhance the character or appearance of the Conservation Area. The existence of other backland development in the area does not justify a proposal that would be harmful to the significance of a designated heritage asset.

32. I recognise that there have been representations of support for the proposal, including that it will enable the existing occupiers of No 46 to make alterations to their property and maintain a smaller garden to accommodate their changing needs. The representor has also drawn my attention to a considerable number of other developments in the area, some of which I have referred to above. However, in the absence of further details of the other schemes referred to, I cannot be certain that the circumstances of the sites are directly comparable with the scheme before me. Whilst I recognise that the outcome of the appeal will be a disappointment to some representors and the appellant, none of the other matters raised changes my conclusions in relation to the first main issue in this case.
33. A number of other concerns have been raised in representations including the potential for overlooking from the new dwellings towards the rear windows and gardens of adjoining properties, the effect on habitats and species and that the rights of local residents under Article 8 of the Human Rights Act 1988 would be violated if the appeal was allowed. Had my findings in relation to the first main issue in this case been more favourable it would have been necessary to address this and other matters more fully but as the appeal is to be dismissed for other reasons, I make no further comments on these points.

34. Matters relating to the way in which the planning application was dealt with are not a matter for this appeal and boundary disputes are civil matters which are not planning considerations.

Conclusion

35. The proposal would fail to preserve or enhance the character or appearance of the Bessacarr Conservation Area. The less than substantial harm to the significance of the heritage asset would not be outweighed by the public benefits of the proposal and the lack of harm to living conditions or highway safety does not outweigh my conclusions in relation to this main issue. For the reasons outlined above, and having had regard to all of the other matters raised, I conclude that the appeal should be dismissed.

Sarah Housden

INSPECTOR