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## Appeal Decision

Site visit made on 13 January 2021

**by G Rollings BA (Hons) MAUD MRTPI**

An Inspector appointed by the Secretary of State

Decision date: 02 March 2021

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**Appeal Ref: APP/N2739/W/20/3259208**

**Hilahgarth, Main Street, Church Fenton, Tadcaster, LS24 9RF**

- 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 The Estate of R F Dean (Dec'd) against the decision of Selby District Council.
  - The application Ref 2019/0513/FUL, dated 13 May 2019, was refused by notice dated 8 April 2020.
  - The development proposed is the erection of three detached dwellings following demolition of existing dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Prior to the Council's determination, the application was revised from four to three proposed dwellings. The details at the top of this letter reflect the change.

### Main Issues

3. The main issues are:
  - The effect of the proposed development on the character and appearance of the area, with particular reference to protected trees; and
  - The effect of the proposed development on highway safety.

### Reasons

#### *Character and appearance*

4. The site is located on the curve of Main Street and tapers to a point, with each of the three proposed properties having a road frontage and long, generally triangular shape allowing for front and rear gardens on each.
5. There is a mix of dwelling styles and plot sizes within the surrounding area. Although many of the properties are larger, there are older terraced homes with long, narrow gardens directly to the west of the site, and denser development on smaller plots slightly further west, around Chapel Close and neighbouring streets. This variety is clearly visible in the street scene. As such, the proposed development of smaller plots would not constitute an overly

dense development, or incongruous in its character or appearance, as it would be in keeping with the mixed character of the surrounding area.

6. There are, however, numerous trees around the existing dwelling that are subject to a Tree Preservation Order (TPO). The 15 trees are located in three distinct groups, and the proposed subdivision would allow for each of the new properties to accommodate one group each. Arboricultural statements have been prepared by both main parties.
7. As a group, the trees provide significant beneficial value to the area's character and appearance, being visible in short- to medium-range views, with taller individual trees being identifiable in both main road approaches to the site. I must give significant weight to the preservation of protected trees, taking into account potential future risk. I share the Council's concerns that their proximity to the proposed dwellings on plot nos. 2 and 3, would require regular maintenance, with associated costs and responsibilities that future occupiers may not be willing to bear. Together with other potential effects resulting from their proximity – such as overshadowing, leaf litter and root spread – there could be pressure to remove one or more of the protected trees. I am not convinced by the evidence before me that there would be satisfactory separation between the trees and the proposed homes to minimise the potential of such a situation arising.
8. I have taken account of the fact that some of the trees proposed for removal are in a poor condition and have limited life expectancy of one or two decades. However, they would continue to make a positive contribution in the meantime, and in any instance, replacement landscaping would take many years to become established and provide comparable beneficial value to the area.
9. I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the area, with particular reference to protected trees. There would be conflict with *Selby District Local Plan* (2005) (SDLP) Policy ENV1 and *Selby District Core Strategy Local Plan* (2013) (Core Strategy) Policy SP4, which together require development to take account of proposals' effects on the character of an area and the potential loss of trees, amongst other considerations.

#### *Highway safety*

10. Each of the proposed plots would have its own driveway and access; as such there would be three new entry points to Main Street on the inside of the aforementioned curve. Concerns were initially raised by the highways authority regarding the deliverability of the proposed visibility splays, although its final comments did not include objections. However, it suggested a planning condition to be attached to any permission, requiring splays with a 39-metre visibility line at a height of 1.05 metres for vehicles, along with other suggested conditions.
11. The Council subsequently refused the application with a reason relating to highway safety, and has provided its own figures suggesting that revised base data requires 43 and 44 metre visibility lines, which would incur on land outside the site boundary and potentially also be affected by boundary treatments, together with other concerns. I have no reason to doubt the accuracy of any of the evidence, but am concerned that the revised base

figures<sup>1</sup> have not been addressed by the appellant. As such, I have no certainty that the extended splays would be deliverable.

12. I acknowledge the appellant's comments that both the highways authority and Council officer report provided no objections to the scheme on highways grounds. However, having considered consultation responses including those from its highways authority, the Council may reach a different conclusion. Likewise, any decision issued by the Council as the local planning authority is not necessarily bound to concur with the recommendations or views of its officers.
13. As I am not satisfied that the objection can be overcome, I conclude that the proposed development would have a harmful effect on highway safety, and would conflict with SDLP Policies ENV1, T1 and T2. Together, these require new road access to not be detrimental to highway safety, amongst other considerations.

#### *Other matters*

14. I have taken into account the appellant's comments regarding policy support in favour of the development, including the beneficial impact of well-designed and located homes at an appropriate density, accessibility and parking, as set out in paragraphs 105, 123 and 125 of the National Planning Policy Framework (2018) and Policies SP2, SP3 and SP4 of the Core Strategy, amongst others. However, these considerations are outweighed by the significant harm or potential harm which I have found in relation to matters of TPO trees and highway safety, as set out above.

#### **Conclusion**

15. For the reasons given above I conclude that the appeal should be dismissed.

*G Rollings*

INSPECTOR

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<sup>1</sup> As provided in the *Transport Audit* by Local Transport Projects for the Council, dated November 2020, section 5.4.