



Appeal Decision

Site visit made on 17 May 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 7 June 2022

Appeal Ref: APP/F4410/W/22/3291527

59 Church Street, Bawtry, Doncaster DN10 6HR

- 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 Mike Murtagh of Rural Estates against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 20/01486/FUL, dated 2 June 2020, was refused by notice dated 29 July 2021.
 - The development proposed is the construction of 7 properties following demolition of existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is taken from the application form. The description is incorrect on the appeal form but all other appeal submissions are in line with the original application.
3. When the application was determined, the development plan consisted of the Doncaster Core Strategy, saved policies of the Doncaster Unitary Development Plan and the Bawtry Neighbourhood Plan. Examination of the Doncaster Local Plan 2015-2035 (LP) had concluded, and subject to recommended modifications was considered to be sound. Therefore, in accordance with Paragraph 48 of the National Planning Policy Framework (the Framework), policies within the emerging LP were given substantial weight in determining the application. Subsequently, the LP was adopted on 21 September 2021.
4. The Council reason for refusal with regard to outside amenity space did not make reference to the emerging LP, but their appeal statement indicates that LP policies 10 and 44 are relevant. The Council reason for refusal with regard to highways and parking matters referred to emerging LP policies 13 and 44, which remain the relevant policies under the adopted LP. This appeal has been determined in accordance with the development plan in force at the time of the decision, which is the adopted LP.
5. Supplementary Planning Documents (SPDs) referred to by the Council have since been revoked. Although I have not been provided with a copy, the Council state that Transitional Developer Guidance is in place whilst new SPDs are considered, which contains the same recommended sizes for outside amenity space as the revoked Development Guidance and Requirements SPD.

Main Issues

6. The main issues are:

- Whether the proposed development would provide acceptable living conditions for future occupants, with regard to outside amenity space.
- The effect of the proposed access and parking arrangements on the safety of pedestrians and drivers using the highway on Church Street.

Reasons

Living conditions

7. As set out in procedural matters above, SPDs referred to by the Council have since been revoked. Regardless of this, as set out in the Framework, SPDs are capable of being a material consideration but are not part of the development plan. The fact that the proposal falls short of recommendations set out within an SPD for sizes of outside amenity space may well be an indication of harm. However, I have made my own judgement based on the circumstances and details of this case.
8. Six of the seven proposed plots contain three bedroom houses and would all provide outside amenity space that falls well short of Council recommendations on size, with two of those plots falling significantly short. The appellant states that the proposal includes good quality, protected, usable spaces, designed as 'courtyard style gardens in line with a town centre location'. Whilst I agree that the shape of the outside spaces makes them usable, I consider the site to be located on the edge of town in a predominantly residential area rather than being in the town centre. Regardless of this, whilst some town centre developments such as flats and apartments may appropriately be served by smaller or shared outside spaces, no explanation has been provided as to why the location or design of this proposal would justify small outside spaces.
9. Houses of the size proposed would likely be occupied by families, and it is reasonable to expect such houses to provide sufficient outside space for residential activities including sitting out, playing, drying of clothes and storage of cycles and bins. The proposed outside spaces would be too small to adequately accommodate such activities. The appellant notes that the plans could be amended to extend the outside spaces, but no such proposal is before me for consideration.
10. I conclude that the proposed development would fail to provide adequate outside amenity space so would result in unacceptable living conditions for future occupants. Consequently, the development would not comply with Policies 10 and 44 of the LP, which together, amongst other things, seek to ensure that housing development provides adequate garden space. Furthermore, it would not accord with paragraph 130 of the Framework which seeks to ensure that developments create places with a high standard of amenity for future users.

Highway safety

11. The site fronts onto Church Street, on the corner with Gainsborough Road. This section of Church Street is relatively short and is width restricted where it joins Cock Hill Lane to the south. There is a footway both sides of the road in the

area of the site, but most of the rest of this section of Church Street lacks formal footways, with dwellings fronting directly onto the street. There are double yellow lines near the junction with Gainsborough Road and white 'keep clear' markings on the road in front of a number of garages and gates. I am informed that the speed limit for the street is 30mph.

12. At the time of my visit¹ there was a high level of parking along Church Street, with vehicles parked end to end along most of the frontage on both sides of the street. There were vehicles or other obstructions in a number of the areas marked as 'keep clear'. Despite this, the number of vehicles travelling along the street during my visit was low, with the short distance between the junction and the width restrictions seemingly keeping speed low.
13. The site is in a sustainable location with good access to services and facilities. However, its proximity to the town centre may well be a source of some of the parking pressures on the street. The proposal includes a separate entrance and exit to a parking area to the rear of the dwellings. It would provide 2 parking spaces per dwelling, plus visitor parking, in line with Council recommendations. Given the size of the proposed dwellings and the surrounding context, this is a reasonable level of on-site parking to expect.
14. The appellant has provided a Highways Technical Note which includes a plan at appendix B showing proposed visibility splays at the entry and exit points and tracking diagrams for on-site vehicle movement and parking. However, the site layout shown in appendix B, on which the calculations are based, is different to the site layout on the proposed site plan drawing², on which the Council decision was made and which is submitted for consideration under this appeal.
15. The Council have raised concerns about the ability of the proposal to provide suitable visibility at the entry and exit points, particularly given the proximity of the front elevations to the footway kerb. Whilst the appellant says that suitable visibility splays can be provided, as their calculations shown in appendix B are not based on the final site layout, this has not been adequately demonstrated.
16. The appellant states that traffic levels³ and vehicle speeds are low, no accidents have been reported, and Church Street is not widely used as a cut through. My site observations seem to confirm this but are only a limited snapshot. No traffic survey has been provided.
17. I acknowledge that Manual For Streets 2 advises that parking in visibility splays in built-up areas is quite common yet does not appear to create significant problems in practice. However, the lack of a footway for much of the length of Church Street and vehicles parked close to dwelling frontages, means that pedestrians are likely to walk in the street itself and between parked cars. Because of this, it is particularly important that adequate visibility is provided at the site entry and exit points to ensure the safety of pedestrians and vehicles.
18. The appellant suggests that suitable road markings might aid visibility by keeping the area around the access points clear of parked vehicles. By contrast, the Council have indicated that 'keep clear' markings are generally only permitted to extend across the entrance itself, not to the extent of the

¹ Mid-morning on a weekday.

² Proposed site plan site location plan and external works details, drawing no. 01, Rev, R3.

³ I am informed that a pre-application response referred to Church Street as a 'lightly trafficked' road.

visibility splay as shown in appendix B, and do not seem to be consistently complied with, which reflects my site observations. I note that the existing 'keep clear' markings appear to relate to accesses that serve single dwellings, rather than a parking area for 7 dwellings as would be the case with this proposal, so direct comparisons cannot be made. Therefore, whilst road markings could potentially be secured via a 'grampian'⁴ condition, I have no substantive evidence to suggest that on their own, such markings would ensure suitable visibility at the entry and exit points of the development as proposed.

19. Appendix B also sets out that medium sized vehicles can manoeuvre within the site to park and enter and exit the site in forward gear. I accept that calculations based on medium sized vehicles are reasonable, but I can give the appendix B drawing very limited weight with regard to on-site vehicle movements as it does not match the site layout on which the decision was based. It may be possible for vehicles to use the parking area as laid out in the proposed site plan, but this has not been evidenced in the appeal submissions and in practice would depend to some extent on the size and turning circle of individual vehicles, as well as driver ability and confidence. The constrained nature of the parking area would potentially cause blockages at the entry and exit points leading to vehicles reversing onto the street. Some people would be deterred from using the parking area, resulting in additional parking demand on Church Street. Any additional parking on Church Street would exacerbate the existing parking pressures and potentially lead to inconsiderate parking. This would cause highway safety issues, particularly given the lack of a footway on much of the street. Therefore, I have no substantive evidence which would lead me to conclude that the proposal would provide suitable on-site parking.
20. I conclude that the proposed access and parking arrangement for the development would result in unacceptable harm to the safety of pedestrians and drivers using the highway on Church Street. Consequently, the development would not comply with Policies 13 and 44 of the LP, which together, amongst other things, seek to ensure that development provides safe access points and appropriate levels of convenient, safe and secure parking that does not result in unacceptable impacts on highway safety. Furthermore, it would not accord with paragraphs 111 and 112 of the Framework which seek to ensure that development minimises the scope for conflicts between pedestrians and vehicles and avoids unacceptable impact on highway safety.

Other Matters

21. The site lies within the Bawtry Conservation Area. Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 specifies that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of any building or other land in a conservation area. Despite some concerns raised in representations about the loss of the existing building, the Council raised no concerns regarding any impact on character and appearance. The form and layout of the proposal would be in keeping with the surrounding area. Therefore, the development would preserve the character of the Bawtry Conservation Area. However, this does not outweigh the harm identified above.

⁴ Grampian conditions derive from *Grampian Regional Council v Aberdeen CC* [1983] P&CR 633. The key features of a Grampian condition are that it is negatively-worded, to prohibit the commencement of the development until some specified action takes place, and the required action must be on land that is not controlled by the applicant and/or must be authorised by another person or body.

22. I note that both parties mention a pre-application enquiry, but it is common ground that the scheme subject to this appeal is different to the pre-application submission. I also note the appellant's frustration at the length of time taken to secure highway officer comments, and their perception that amenity issues were introduced to add weight to the refusal. I have dealt with the appeal on the basis of its planning merits.

Conclusion

23. For the reasons given above and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be dismissed.

Helen Davies

INSPECTOR