

Appeal Decision

Site visit made on 15 June 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2022

Appeal Ref: APP/Y2003/W/22/3291733

35 Donnington Gardens, Scunthorpe DN15 7RJ

- 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 S A Zaman against the decision of North Lincolnshire Council.
 - The application Ref PA/2021/1001, dated 23 May 2021, was refused by notice dated 22 October 2021.
 - The development proposed is extension and alterations to provide a 6 bedroom HMO.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by S A Zaman against North Lincolnshire Council. This application is the subject of a separate decision.

Procedural Matter

3. The appellant suggests that the change of use of a dwelling to a house in multiple occupation (HMO) for 6 occupants does not require planning permission. Nonetheless, it is included in the description of development and I must determine the appeal which is before me.

Main Issues

4. The main issues are the effect of the proposed development upon the character and appearance of the area, the living conditions of the occupiers of 37 Donnington Gardens with particular regard to noise, and highway safety.

Reasons

Character and Appearance

5. Donnington Gardens consists principally of semi-detached dwellings with driveways to the side, as is the case with the appeal property. Despite garages being erected to the side of some of the dwellings, a good degree of separation remains between neighbouring properties, particularly at first floor level. This contributes to the spacious character of the street scene which is important given the relatively short front gardens.
6. The proposed 2 storey side and rear extension would be seen in views down the length of Donnington Gardens. Although it would be considerably set back, the extension by virtue of its siting, size and solid form would visually fill the gap between the appeal site and 37 Donnington Gardens. The extension would

appear squashed in between the 2 properties, with the resultant gap to No 37 not being discernible, given the angled nature of this property. It would further occlude views through to the trees at the rear of the appeal site which would be harmful to the spaciousness of the street scene. As the form and position of the proposed extension would sit awkwardly in relation to the host property, the cramped nature of the proposed extension would be exacerbated.

7. Whilst I saw other 2 storey side extensions to dwellings within Donnington Gardens, they nevertheless retained a visual gap with the neighbouring property, particularly at first floor level. The development I am referred to at 24 Donnington Gardens appears to have been for rear extensions, not affecting the street scene. Removal of the rear extension and detached outbuildings would not offset the impact of the proposed extension on the street scene.
8. The proposed extension would be harmful to the character and appearance of the area. It would therefore fail to accord with Policy CS5 of the North Lincolnshire Local Development Framework: Core Strategy 2011 (Core Strategy) which amongst other things, seeks to ensure new development is well designed and appropriate to the specific context. It would also be contrary to saved Policies DS1 and H5 of the North Lincolnshire Local Plan 2003 (Local Plan), which seek to ensure that the design and external appearance of the proposal reflects or enhances the setting of the area and that scale and layout are compatible, objectives shared with Supplementary Planning Guidance 1 (SPG1) Design Guidance for House Extensions (2003).
9. The Council suggests that Policy H7 of the Local Plan (2003) is applicable to the appeal. As the policy relates to tandem or backland development, I do not find it relevant to this proposal.

Living Conditions

10. By its nature, the HMO would result in 6 people occupying the property independently from each other. HMO occupants are likely to come and go separately from one another for work, shopping and other day-to-day activities. Given its occupation by potentially unconnected individuals, it is conceivable that there would be separate visitors as well. This pattern of activity is distinctly different from that of a single family.
11. Even though Environmental Health and Housing did not object to the proposal and legislation exists to enable the Council to deal with noise issues, this does not negate the need to consider the impact of development on neighbouring users. I saw that there is limited separation between the appeal site and the principal windows of No 37. The proposed development would result in an intensification of use with noise from associated comings and goings that would be experienced by the occupiers of No 37, who should reasonably expect the quiet enjoyment of their home.
12. The proposed development would have an adverse effect on the living conditions of the occupiers of No 37, with particular regard to noise. The proposed development would fail to accord with Policy DS1 of the Local Plan (2003) and Policy CS5 of the Core Strategy (2011) which seek amongst other things, to ensure that there is no unacceptable loss of residential amenity from noise and that the function of buildings is appropriate to the context.

Highway Safety

13. The site is within walking distance of public transport and local shops and services. Occupiers of the proposed development would not therefore be reliant on the private car. Nevertheless, 3 on-plot car parking spaces would be provided which would comply with the requirements of Local Plan Appendix 2– Parking Provision Guidelines.
14. Although a snap-shot during the daytime, I saw that Donnington Gardens is a low-trafficked residential road with unrestricted on-street parking. I am advised that there have been historic car parking issues and that residents have been consulted regarding the possibility of installing double yellow lines. However, I have no substantive evidence that this has been agreed and moreover, no evidence that safety issues or disruption to traffic flow has occurred from on-street car parking. Furthermore, on-street car parking did not appear to have reached saturation point.
15. The appeal site is located close to a 90° bend and the road layout requires reduced speeds to ensure safe navigation of the bend, regardless of whether there are parked cars in situ. Whilst understanding the concerns regarding demand for on-street car parking from events at the Baths Hall, such events are likely to be episodic and the resultant car parking pressures temporary.
16. I am advised that the proposal would exacerbate difficulties with on-street parking for disabled residents nearby. I must have due regard to the Public Sector Equality Duty, contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic such as disability, and people who do not share it. As the majority of dwellings in Donnington Gardens have a private driveway for at least 1 car, it is unlikely that the development would prevent disabled residents from accessing their homes.
17. Paragraph 111 of the Framework is clear that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. A severe impact would not be exerted on the road network for the reasons given above.
18. The proposed development would not be harmful to highway safety. As such, the proposal complies with Policy T19 of the Local Plan (2003), which requires new development to provide additional parking through compliance with the standards set out in Appendix 2; Parking Provision Guidelines. It would also comply with paragraph 111 of the Framework, which aims to prevent unacceptable impacts on highway safety.

Other Matters

19. Suggestion has been made that the proposed change to a Class C4 HMO, does not require planning permission. Be that as it may, in this instance the 6 bedroomed HMO for 6 occupants, appears to be reliant on the proposed extension. As I have found harm with the proposed extension for the reasons given above, I do not find that there is a realistic prospect of the fallback position being implemented. Even if a HMO with less occupants were to be created, this would be a significantly smaller-scale development than the

scheme before me. The circumstances of appeal reference 3264159 are not identical to those here, as the impact of extensions on the character and appearance of the area was not a main issue.

20. It is suggested that the scheme would provide short-term affordable accommodation to fulfil a particular type of housing need in a sustainable location. These benefits do not override the harm I have identified, particularly in the absence of a robust mechanism to secure the accommodation as affordable. A condition to secure the HMO for medical staff at the nearby hospital would not be reasonable or enforceable. The lack of objection from statutory consultees is a neutral factor that weighs neither against nor in favour of the proposal.

Conclusion

21. I have found that the proposed development would not be harmful to highway safety. Nevertheless, this matter does not outweigh my findings in respect of the effect of the proposed development upon the character and appearance of the area and the living conditions of the neighbouring occupiers. For the reasons set out above, having regard to the development plan as a whole and all other relevant considerations, the appeal is dismissed.

M Clowes

INSPECTOR