



Appeal Decision

Site visit made on 29 November 2022

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/N4720/W/22/3306611

Land to the rear of 48 Main Street, Thorner, Leeds LS14 3BU

- 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 Park Lane Homes Ltd against the decision of Leeds City Council.
 - The application Ref 21/10308/FU, dated 23 December 2021, was refused by notice dated 22 June 2022.
 - The development proposed demolition of existing garage and erection of replacement garage for No. 48 Main Street and the erection of 2 no. detached residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and erection of replacement garage for No. 48 Main Street and the erection of 2 no. detached residential dwellings, at land to the rear of 48 Main Street, Leeds, LS14 3BU in accordance with the terms of the application, Ref 21/10308/FU, dated 23 December 2021, subject to the conditions set out in the schedule below.

Preliminary Matters

2. The decision notice includes emerging policies from the Thorner Neighbourhood Plan. It is not in dispute that given the stage of preparation of this Plan only limited weight can be given to these policies, and I have reached the same conclusion. Nevertheless, the policies referenced are largely consistent with the policies within the development plan and as such I have included in my reasoning below.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character and appearance of the Thorner Conservation Area (TCA), including the effect on trees.

Reasons

4. The appeal site comprises land to the rear of 48 Main Street, which is a stone house fronting Main Street. It is within the TCA and falls within Character Area 1. From my observations and the TCA Appraisal and Management Plan (AMP) (2009) the significance of the conservation area includes its long plots, back lanes and stone properties, which highlight Thorner as an almost intact rural settlement of farming origins. The AMP sets out that there is variation within Character Area 1 which adds to the feel of the area. Properties along Main Street form at first glance an unbroken architectural barrier, but when there is a glimpse through, it can be seen that the building line does not lead to

compacted infill beyond it. The AMP identifies No 48 as a positive structure within the conservation area and I agree with this finding.

5. As part of the management plan, inappropriate forms of infill development will be resisted, and any development proposing the subdivision of a plot should respond to the scale, proportion, layout and materials of positive structures and the spaces between the buildings, together with existing vegetation.
6. The Thorner Village Design Statement (2011) states that the buildings fronting Main Street preserve the medieval pattern of relatively narrow frontages with long 'burgage' plots to the rear. It also recognises that in many instances, the narrow 'burgage' plots have become partly infilled over time.
7. I observed that to the rear of Main Street there are a number of infill developments, including a new dwelling to the rear of No 58 which was allowed at appeal, and that development is underway. The Inspector in that case found the open areas to the rear of the houses to have been significantly eroded and that backland development is a well-established feature. While I note that a number of infill developments in the area were prior to the AMP which seeks to resist such developments, the above appeal decision took this into account, and I agree with the assessment of the area being characterised by backland development.
8. The relationship of buildings and open space can represent the historical character in the conservation area. Nevertheless, given the prevailing character of the site's surrounding area, with a number of existing infill developments, the site would not be read as an open space that was once historically defined.
9. Given the width of the garden, which is said to incorporate what was once the linear plots to the rear of No 50 and 52, the two proposed dwellings and relocated garage for No 48 would largely sit behind the properties that front Main Street. In doing so, the layout of the proposal would respond positively to the existing pattern of development in this location. This arrangement of development would result in the dwellings being comparable in width and length to the other properties nearby, largely respecting the secondary building line that has been created by other infill developments in the area.
10. Although the proposal is for two storey properties, these are not of a height, scale or massing that would be significantly different to the existing backland development in this location. Moreover, the dwellings would be set back within the plot and would not compete with the dwellings that contribute positively to the streetscene of Main Street. The scale and appearance of the proposed dwellings would not appear ancillary to these existing buildings. Nevertheless, the scale would be comparable to others nearby and they would be seen with the existing backland development. therefore, they would not appear incongruous with the surrounding pattern of development.
11. The proposal would ensure that a large part of the original garden remains open to the rear which would provide for an ecological buffer zone. As such, the plot would not become dominated by buildings. Moreover, the traditional linear thin gardens have already been altered in this location, resulting in a wider garden that can readily accommodate two dwellings. Given the prevailing character and appearance of the surrounding area, the proposal would not be perceived as the creation of a mini 'close' or 'cul-de'sac', and the introduction of domestic features such as hardstanding, parking and bins would not be

- detrimental to the character or appearance of the TCA or the positive building at no 48.
12. From Main Street, there are limited spaces between properties in this section of the street and I observed limited views of the appeal site. There are also currently a set of tall gates obscuring any substantial views to the garden, and even when these are open, views are largely blocked by the existing garage. In any event, I have found that the proposal would follow the pattern and scale of the nearby existing backland development.
 13. A number of individual and groups of trees lie within the site boundary. None of the trees within the site currently benefit from a preservation order, however they are afforded protection by reason of being in a Conservation Area, as set out in the Planning Practice Guidance (PPG).
 14. The tallest trees to the rear of the site make a positive contribution to the area and have amenity value through public views which I observed from Main Street, the public footpath adjacent to No 44 and from Virginia Terrace. These trees are to be retained and would still be visible above the proposal when viewed from Main Street. This visual relief from the built forms in the area would be retained, as would the contribution they make to the character of the TCA.
 15. As set out in the submitted arboricultural report, in total 6 trees/groups of trees are proposed to be removed. T9 and T11 are category U and regardless of the proposal have been recommended to be removed. T2 and G8 are category C with low amenity value and T10 and G12 are category B with moderate amenity value. The category B and C trees are in reasonable condition and form, contributing positively to the wider area more generally. However, owing to their height and location, they are not prominent beyond the immediate locality and as such the amenity value of these trees is low.
 16. The loss of the trees would be mitigated by extensive tree planting at a ratio of 3:1. The tree planting scheme submitted by the appellant proposes the planting of 21 new trees of varied species. Concerns are raised by the Council about whether the tree planting can be expected to thrive, however there is no substantive evidence on this matter. In any event, a condition can be imposed to ensure the maintenance of the trees is secured.
 17. I have given careful consideration to the comments from local residents who value the trees on the site. However, sufficient justification has been provided to support the removal of the trees which will be mitigated through extensive new tree planting.
 18. For the retained trees, including some of high quality, the proposal does not meet the Council's longstanding local guidelines on separation distances between development to trees. The submitted arboricultural implications assessment acknowledges there may be some infringements into the root protection areas, however these appear to be limited in extent. I am satisfied that the retained trees would be protected through the imposition of a condition requiring an arboricultural method statement to be submitted which would provide details on protective barriers, ground protection and any specialist construction techniques that may be required to ensure the retained trees are protected.

19. The proposal would preserve the character and appearance of the TCA, including the effect on trees, in accordance with policies G2, H2, P10, P11 and P12 of the Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019), saved policies LD1 and N19 from the Leeds Unitary Development Plan (UDP) (Review 2006), Policy LAND2 from the Natural Resources and Waste DPD and emerging policies A1, A3 and B2 of the Thorner Neighbourhood Plan.
20. These policies, amongst other things, require new development to be of a size, scale, design and layout that is appropriate to its context. The historic environment should be conserved and enhanced, including the historical significance of townscapes and landscapes. The policies also seek development that conserves trees wherever possible and also introduce new tree planting as part of creating high quality living and working environments and enhancing the public realm. Tree replacement should be provided on a minimum three for one replacement to loss.
21. The proposal would also align with the heritage protection policies of the National Planning Policy Framework (2021). The proposal is also in accordance with the provisions of the of the Framework at Paragraph 131, which sets out that opportunities should be taken to incorporate trees in developments, and that appropriate measures are in place to secure the long-term maintenance of newly-planted trees.
22. The Council has accepted that saved policies BC7 and N24 of the UDP were included in the decision notice in error. The Council acknowledge in the officer report that the materials proposed are not considered to be harmful to the character of the conservation area and as such there is no conflict with Policy B7. Similarly, the officer report sets out that the proposal meets the requirements of Policy N24 and as such there is no policy conflict and I have reached the same finding.

Other Matters

23. The proposal provides appropriate parking provision on driveways and in garages, and there is no substantive evidence to suggest that the proposal would result in an increase in on-street parking in the area which would be of such a scale it would be harmful to highway safety. Rumble strips where the driveway meets Main Street are to be provided which will ensure speeds are reduced to assist with pedestrian visibility of vehicles exiting the site.

Conditions

24. The conditions requested by the Council and amendments proposed by the appellant have been considered and amended as necessary in light of the PPG. In addition to the standard condition that limits the lifespan of the planning permission it is necessary to impose a condition identifying the approved plans for clarity.
25. To ensure the protection of retained trees and hedges and in the interest of the character and appearance of the area a condition is imposed in relation to securing the submission of an arboricultural method statement. This is required before the commencement of development to ensure damage is not caused to the trees and hedges during the early stages of work. Also, to protect the character and appearance of the TCA it is necessary to impose a materials

- condition to secure details on this matter. This includes reference to stonework and the installation of windows and doors and as such separate conditions are not necessary. Similarly, a landscaping condition is imposed which includes measures to secure the long-term maintenance of newly-planted trees, which covers hard and soft landscaping so separate conditions are not necessary.
26. In the interest of the biodiversity of the site I impose a condition to prevent any habitat disturbance to nesting birds during the clearance of the site, and to secure the implementation of biodiversity enhancement measures, including bird and bat nesting features.
27. A condition is necessary to secure proper drainage and to manage the risk of flooding. It is required before the commencement of development to ensure a suitable scheme can be achieved. The submission and approval of a Construction Management Scheme is required in the interest of highway safety and protecting the living conditions of neighbouring occupiers, and before the commencement of development as the details relate to the construction phase. I also impose a condition in relation to remediation and contamination to protect living conditions. In the interest of historical recording of the site and its likely archaeological interest a condition is imposed in relation to archaeological evaluation.
28. In the interests of highway safety and to promote low carbon transport a condition requiring that all areas to be used by vehicles have been laid out, including car parking and electric charging points is necessary. However, I have removed reference to surface water not discharging or transferring on the highway as this is covered by the drainage condition. The Council's officer report notes that the proposed garages will provide secure cycle/motorcycle parking spaces and as such, the suggested condition on this type of parking is not necessary and reference has been included to the above condition to ensure cycle storage is provided in the garages and retained as such.
29. To ensure proper arrangements are in place a condition is imposed in relation to bin storage. For the free and safe use of the highway and the interests of disabled access I have imposed a condition relating to the gradients of vehicle access, all drives and pedestrian access. Also in the interests of accessibility, a condition is imposed in relation to securing accessible housing certification.
30. I have imposed a condition relating to the removal of certain permitted development rights. This will ensure the retention of sufficient usable garden areas for future occupants, and the protection of retained on-site trees. The suggested amendment from the appellant is not sufficiently precise, and in any event, the condition does not preclude the provision of a greenhouse or shed, which can be sought through a planning application. To protect the living conditions of nearby occupiers with regard to privacy, I have imposed conditions to secure obscured glazing and ensure that additional windows are not inserted to the north-eastern or south-western side elevations of the proposed dwellings.
31. Given the ground levels at the site, there is no substantive evidence to demonstrate that there is likely to be the need for soil importation to take place, nor that permission should be refused in the absence of such a condition. An importing soil condition has not therefore been imposed. As set out above in my reasoning, given the prevailing character and appearance of the area surrounding the appeal site, the site would not be read as an open

space that was once historically defined. Moreover, I have found the proposal would preserve the TCA. Accordingly, a condition relating to boundary treatments is not necessary.

Conclusion

32. For the reasons given above, I conclude that the proposal accords with the development plan. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans; Site Location Plan 3235-DEN-X-XX-DR-A-1002 Rev A; Topographical Survey Site Plan PLH_01_Thorner Rev A, Site Context Block Plan 3235-DEN-X-XX-DR-A-1003; Existing and Proposed Block Plans 3235-DEN-X-XX-DR-A-1001 Rev B, Proposed Site Plan 3235-DEN-X-XX-DR-A- 1000 Rev H; House 1 Proposed Plans and Elevations 3235- DEN-X-XX- DR-A-2000 Rev B; House 2 Proposed Plans and Elevations 3235- DEN-X-XX-DRA-2001 Rev B; House 2 Garage Proposed Plans and Elevations 3235-DEN-X-XX-DR-A-2002 Rev A; Permeable/Impermeable Areas 3235- DEN-X-XX- DR-A-1004; Plan to Show Extent of Ecological Buffer Zone 3235- DEN-X-XX-DR-A-1005; and Bat and Bird Box Locations.
- 3) No development shall commence, including site clearance works, until an arboricultural method statement has been submitted to and approved in writing by the local planning authority. This shall show that all trees and hedges shown to be retained on approved plan Proposed Site Plan 3235-DEN-X-XX-DR-A-1000 Rev H will be fully safeguarded by protective fencing and ground protection in accordance with the provisions of British Standard 5837: 2012 'Trees in relation to design, demolition and construction. Recommendations' (or equivalent if replaced). Site clearance works and development shall be carried out in strict accordance with the approved method statement.
- 4) Hedges, trees and shrubs shall only be cleared outside of the bird nesting season (1 March to 31 August inclusive), unless, before the clearance commences, a report has been submitted to and approved in writing by the local planning authority to establish whether the site is utilised for bird nesting. Should the report reveal the presence of any nesting species, then no development shall take place during the period specified above unless a mitigation strategy has first been submitted to and approved in writing by the local planning authority which provides for the protection of nesting birds during the period of works on site. The mitigation strategy shall then be implemented as agreed.
- 5) No development shall commence until a drainage scheme for the discharge of foul and surface water, has been submitted to and approved in writing by the local planning authority. The scheme shall include the use of infiltration drainage methods and measures to ensure that surface water does not discharge or transfer on to the highway. It shall also include a drainage management and maintenance plan. The development shall be completed, maintained and managed in accordance with the approved details thereafter.
- 6) No development shall commence until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of:
 - the route of access and parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding;

- measures to control the emission of dust and dirt during construction including those generated by vehicles; and
- hours of construction activity.

The approved CMS shall be adhered to throughout the construction period.

- 7) No demolition or development shall take place within the red line boundary shown on approved Site Location Plan 3235-DEN-X-XX-DR-A-1002 Rev A, until the implementation of a programme of archaeological recording has been secured. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 8) No above ground construction shall commence until details and samples of all external facing materials have been submitted to and approved in writing by the local planning authority, including stonework and precise details of windows and doors, including materials and finish, sections, profiles and depth of reveal. A sample panel shall be made available prior to the commencement of building works, for inspection by the local planning authority which shall be notified in writing of their availability. It shall show the proposed material, bond, pointing technique and palette of materials to be used in the development and shall not be removed from the site until completion of the development. The development shall be constructed in accordance with the approved details and sample and thereafter maintained as such.
- 9) No above ground construction shall commence until details of both hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. The details shall include:
 - hard surfaced areas, site furniture and materials;
 - boundary treatments;
 - subsoil and topsoil depths;
 - cultivation methods;
 - seasonal operations associated with plan and grass establishment; and
 - planting plans, specifications and schedules (including planting size, species and numbers/densities). For tree planting, this shall be as indicated in the Tree Planting scheme 17662-C/AJB, prepared by JCA Limited.

The hard landscaping works shall be carried out in accordance with the approved scheme and shall be completed prior to the first occupation of any part of the development. The soft landscaping works shall be carried out in accordance with the approved scheme and in the first available planting season following the first occupation of any part of the development. Any trees/hedge/shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees/hedges/shrubs of similar size and species to those originally required to be planted.

- 10) Prior to the occupation of the development hereby permitted, a biodiversity management plan relating to the ecological buffer zone as indicated on the approved Plan to Show Extent of Ecological Buffer Zone 3235- DEN-X-XX-DR-A-1005, and full details of the bat and bird nesting features shown on the

approved Proposed Site Plan 3235-DEN-X-XX-DR-A- 1000 Rev H shall be submitted to and approved in writing by the local planning authority. The biodiversity management plan shall demonstrate a management, implementation and maintenance programme for the delivery of biodiversity net gain on site and include long term objectives over a 30-year period. The biodiversity management plan shall be carried out as approved, and the ecological buffer zone and bat and bird nesting features maintained and retained as such thereafter.

- 11) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how this contamination shall be dealt with. The remediation strategy shall be carried out as approved before the development is resumed or continued. Following completion of any remediation measure a validation report must be submitted to and approved in writing by the local planning authority.
- 12) Prior to the occupation of the development hereby permitted, all areas shown on the approved plans to be used by vehicles shall be fully laid out, including the car parking, garages which shall include cycle storage, and electric charging points shown on approved Proposed Site Plan 3235-DEN-X-XX-DR-A- 1000 Rev H which shall be implemented and made available for use. The arrangements shall be retained as such thereafter.
- 13) Prior to the occupation of the development hereby permitted, the bin store shown on approved Proposed Site Plan 3235-DEN-X-XX-DR-A- 1000 Rev H shall be implemented in full, maintained and retained as such thereafter.
- 14) Prior to the occupation of the development hereby permitted, the following gradients shall be implemented:
 - all drives shall not exceed 1 in 12.5 (8%);
 - the vehicular access shall not exceed 1 in 40 (2.5%) for the first 15 meters and 1 in 20 (5%) thereafter; and
 - the pedestrian access shall not exceed 1 in 20 (5%).
- 15) Prior to the occupation of the development hereby permitted, a post-construction accessible housing certification table shall be submitted to and approved in writing by the local planning authority. The table shall set out details of which dwellings have satisfied M4(2) accessible and adaptable dwellings standards, contained within Part M Volume 1 (Approved Document) of The Building Regulations 2010 (or equivalent if replaced).
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Orders revoking or re-enacting that Order with or without modification), no development within Schedule 2, Part 1 Classes A, D, E and F, and Part 2 Class A shall be carried out.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the windows to the first floor north-eastern

and south-western side elevations of the dwellings shall be glazed with obscure glass to at least level 3 obscurity and thereafter retained as such.

- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Orders revoking and re-enacting that Order with or without modification), no windows shall be inserted in the north-eastern or south-western side elevations of the proposed dwellings.

*****End of Conditions*****