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# Appeal Decision

Site visit made on 1 May 2024

**by L N Hughes BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 May 2024**

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**Appeal Ref: APP/F4410/W/23/3332830**

**107 and 109 Sheffield Road, Warmsworth, Doncaster DN4 9XQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Lee Walker against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref is 21/01123/OUT.
  - The development proposed is residential development to construct 4 detached dwellings to rear of 107 and 109 Sheffield Road, Doncaster (outline all matters reserved).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal is in outline with all matters reserved. The submitted plans are therefore indicative only.
3. I have amended the site address above to reflect that on the decision notice. This better reflects the site's relationship with both Nos. 107 and 109 Sheffield Road, and not just No. 107 as originally stated.
4. The evidence includes a revised Concept Site Plan not before the Council at the time of its decision, which identifies only 3 dwellings<sup>1</sup>. However, in accordance with the *Holborn Studios Ltd*<sup>2</sup> judgement, accepting this would not meet the substantive test. Although the appellant states that they were and are open to the reduction of unit numbers and a change in description, this flexibility was not included within the original description nor agreed by the Council. Despite being only illustrative, this plan would involve a fundamental change to the application and would also conflict with the description of development. The 'Procedural Guide: Planning Appeals – England' (updated 2024) advises that the appeal process should not be used to evolve a scheme. My determination is therefore based on the refused scheme for 4 dwellings.

## Main Issues

5. The main issues are the effect of the proposed development on:
  - the character and appearance of the area; and
  - biodiversity.

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<sup>1</sup> Reference 20004-001 REV B, October 2023

<sup>2</sup> *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

## Reasons

### *Character and Appearance*

6. The proposal is for 4 new dwellings on the rearmost parts of the very long gardens of Nos. 107 and 109 Sheffield Road, with the No. 107 driveway also slightly widened to allow for access. The hosts are 2 storey detached dwellings, lying within a long row of semi-detached 2 storey dwellings facing the road. Dwellings to the west of the appeal site also have long linear gardens, with varied boundary treatments including significant hedging and trees. The gardens are predominantly lawned, along with some hardstanding and outbuildings. A cul-de-sac development lies beyond the southern extent of the gardens, and an allotment adjoins the appeal site's eastern border. The overall character is that of a pleasant, open and somewhat verdant, suburban area.
7. The proposal would remove some vegetation and add additional hardstanding to the Sheffield Road frontage. However, some greenery would be retained, and the effect would not be uncharacteristic in the domestic context and also compared to elsewhere in the dwelling row. The boundary arrangement to separate the widened driveway from the No. 107 curtilage may appear somewhat untoward, indicating the presence of backland development, but this could be addressed through reserved matters. The overall impact on the streetscene would therefore be acceptable.
8. The Doncaster Local Plan 2015 -2035 (LP) (2021) Policy 44 provides design guidance for new housing, with criterion (C) addressing backland proposals. Although the site is not within the specifically identified backland protection areas, the criterion is still relevant. It supports proposals where the loss of rear domestic gardens is minimised, due to the need to maintain local character, amenity, garden space, and green infrastructure and biodiversity. I note that the Council has not suggested a conflict relating to neighbouring amenity or insufficient remaining garden space, and I address biodiversity separately below.
9. The provision of 4 new dwellings, in whatever form they may take, would be very different in plot size, layout, and density compared to the rest of the row. The appellant highlights the presence of quite substantial garden outbuildings as a comparison, and that more could be erected under permitted development rights. However, while outbuildings clearly do and would provide built form, their cumulative effect is not significant in the overall context. The drone photographs show they are smaller in scale than the host dwellings, with the number, size, and location varying by plot. This is a typical domestic context, and does not affect the general open character. Outbuildings do not therefore provide support for the proposal.
10. The westernmost plot in the row at No. 163 Sheffield Road has been subdivided, and permission granted in 2010 for backland development of 4 dwellings<sup>3</sup>. This followed a 2008 allowed appeal where the Inspector considered the dwellings would be obscured from the rear gardens of other properties by existing hedges, and would not result in a negative visual effect on the surrounding area. The appellant therefore considers No. 163 is a direct comparison being the wider end plot, and thus sets a precedent.

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<sup>3</sup> No. 163 Sheffield Road, Reference 10/01443/FUL.

11. This scheme has not been built, and the parties disagree whether the permission is still extant. However, even if it is, I find the site context to be different. Firstly, it is too far away to be appreciated on the ground as providing balance to the proposal. Secondly, the No. 163 dwellings would align between the host and those dwellings to their south, to form a hard edge to the settlement's built form, continuing the precedent already set. In contrast, the appeal site lies within the settlement. Importantly, it is in the middle of an open expanse which includes the adjacent allotments, and therefore development would interrupt this rather than form an edge. Overall therefore, No. 163 does not provide support to the proposal.
12. Furthermore, the allotments are almost completely surrounded on all other sides by dwellings, such that the remaining sense of openness along the appeal side has increased importance to this character. In taking the large extent of the gardens and allotment land as a whole, the proposal would cause some loss of spaciousness, and impact on its open character.
13. Four dwellings, including the associated extent of hardstanding and car parking, and boundary treatments, would therefore be intensive and uncharacteristic. The appellant suggests that they would be generally obscured by boundary hedging, but some of this would likely be removed, and the impact would not be fully obscured from all vantage points. I acknowledge that all matters are reserved relating to scale and appearance, such that massing and bulk could be minimised. However, moderate harm would be caused, particularly due to the density of the scheme and the impact on landscaping and in views across the currently open site.
14. I further note that experientially, and notwithstanding that it was a snapshot in time, I found the site to be peaceful due to the distance from roads and lack of general activity. The introduction of vehicle movements and concentration of activity from 4 additional dwellings, would be a substantial increase. While this would not cause direct harm to the living conditions of occupiers of neighbouring properties or the allotment users, it would impact on their experience of the area's character.
15. Overall therefore, the proposal would harm the character and appearance of the area. In recognition of its lack of significant visibility and the potential that the dwellings could be very limited in scale, I find this to be moderate harm, to which I give moderate weight. It would conflict with the LP Policies 41, 42, and 44, which amongst other matters and those identified above, require proposals to be high quality, respond positively to the context and character of existing areas, and integrate visually and functionally with the immediate and surrounding area. It would also conflict with the National Planning Policy Framework ('the Framework') (2023) paragraphs 123 and 135, which require proposals to safeguard and improve the environment, add to the overall quality of the area, and be sympathetic to local character including the surrounding built environment.

### *Biodiversity*

16. The Tree Survey (2021) ('the survey') identified 21 individual trees and 7 groups of trees on the site, and various hedges. The indicative proposal would involve the removal of a significant number of these, including additional trees within the southern portion of the site not shown on the Concept Site Plan. The

survey provides suggested layout modifications which could result in fewer of these being impacted. It also identifies that a minimum of 2 new trees should be planted to replace each category B tree lost, with planting opportunities within the new gardens.

17. The Preliminary Ecological Appraisal (July 2021) also suggests that trees, hedges, or shrubs that are removed should be replanted with native species so as to avoid any long-term detriment to nesting birds. However, it is difficult to visualise a layout which could replant the same or additional extent of hedgerow and trees as would be lost, even with the suggested layout revisions.
18. The LP Policy 29 requires proposals to deliver a net gain for biodiversity, and protect, create, maintain, and enhance the Borough's ecological networks. Policy 30 states that proposals which may harm features of biodiversity interest should use the DEFRA biodiversity metric to demonstrate delivery of a minimum 10% net gain for biodiversity. Policy 32 further requires demonstration that a significant adverse impact upon ecological interest has been avoided, including a sufficient provision of appropriate replacement planting where it is intended to remove trees and hedgerows.
19. The Biodiversity Net Gain Supplementary Planning Document (BNG SPD) (2022) provides further guidance regarding the type and format of information to be provided, for how planning applications, including outline applications, should satisfy the LP Policy 30 requirement. The Framework paragraphs 180 and 186 also require avoidance or compensation for significant harm to biodiversity, and a biodiversity net gain.
20. Although not before the Council at the time of its decision, the appeal evidence includes a Biodiversity Net Gain Report and a Biodiversity Metric (November 2023). These identify that the on-site habitats post development would result in a biodiversity net gain of 10.45%, and a hedgerow unit gain of 50.14%.
21. However, these figures are based on an assessment of the revised layout for 3 dwellings, omitting plot 4 in the southernmost section which would instead be a biodiversity enhancement area. As outlined above, I have not accepted this revised scheme as the basis of my determination. Therefore, there is insufficient evidence that the 4 dwelling scheme could meet the required biodiversity increase and mitigate the impact caused to existing vegetation. Even if I were to assume that some of the detailed outcomes within the biodiversity report would also apply to the proposal before me, including because the plans are only illustrative, I am unconvinced that the necessary size of the biodiversity enhancement area or replacement planting could be accommodated.
22. I therefore find overall that the proposal would cause harm to biodiversity, to which I give significant weight. As outlined above, it would thus conflict with the LP policies 29, 30, and 32, the BNG SPD, and the Framework paragraphs 180 and 186.

### **Other Matters**

23. The Framework seeks to significantly boost the supply of homes, with paragraphs 123 and 124 providing support for the development of windfall sites and the effective use of land. Additional housing within the main urban area of Warmsworth is therefore a benefit of the proposal, including due to the

facilities available nearby. However, it has not been suggested that the Council is under its housing land supply target, and 4 dwellings would only be a relatively small-scale contribution. This benefit therefore attracts modest weight. There would also be small social and economic benefits from construction, and from the local expenditure, demand for services, and tax revenue by the additional residents. These benefits would be small-scale overall, and again I give them modest weight.

24. The appellant states that the site is surplus to requirements as garden land, and a significant maintenance imposition. I give this minor weight as a consideration, which is predominantly a private matter.
25. The appellant identifies 2 sites nearby allocated by the LP for housing and mixed-use. However, the context for assessing and allocating such sites is significantly different from the proposal before me, and how they may give support to this appeal is not explained. Also, the site adjacent to the allotments has been developed for housing, and so I have already taken its characteristics into account.
26. Overall, the benefits and other matters I have identified would not outweigh the harm which would be caused to the character and appearance of the area, and to the site's biodiversity.

### **Conclusion**

27. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

*L N Hughes*

INSPECTOR