



Appeal Decision

Site visit made on 3 April 2024

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 3 May 2024

Appeal Ref: APP/F4410/W/23/3331393

9 Wellgate, Conisbrough, Doncaster DN12 3HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Richard Hill against the decision of the City of Doncaster Council.
 - The application Ref is 22/02364/FUL.
 - The development proposed is described as 'New detached dwelling to be built on former site / courtyard area with bin stores opposite.'
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Richard Hill against the City of Doncaster Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant's full name has been confirmed in writing via an email. I have therefore used this name in the banner heading above.
4. Subsequent to the date of the Council's decision, a revised version of the National Planning Policy Framework (the Framework) was published. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issue

5. The main issue is whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to garden size and privacy.

Reasons

6. The appeal relates to an irregular shaped piece of land that is located to the rear of an adjoining group of 2 and 3 storey buildings that front Church Street and Wellgate. It is also situated behind 22 Wellgate which is a 2 storey detached dwelling, and within the boundaries of the Conisbrough Conservation Area.
7. It is undisputed that the floorspace of the proposed garden area would fall 20 square metres short of that advised in the Council's Revised Transitional Developer Guidance 2023 (TDG). I am also aware that the TDG does not specifically set out front-to-back space standards. However, as this guide is not a formally adopted supplementary planning document, and has informal status, I attach limited weight to it.

8. Nevertheless, given the irregular shape and restricted size of the site, the garden space is proposed to be provided to the northern side of the proposed building. This area is of limited width, depth, and practical use for a number of domestic purposes. As such, the proposed outside amenity space would be unduly small and cramped and would be less than is reasonable for a family sized dwelling.
9. I recognise that a single opaquely glazed window within the rear elevation of the nearby Hunters Cottage would not unduly affect the privacy levels of the proposal's future occupiers. The position and scale of the proposed dwelling would also largely screen views of the proposed garden area from the rear openings of the properties on Church Street.
10. Nonetheless, the location and orientation of the proposed garden area is such that it would be directly overlooked by the first-floor rear windows of No 22. It is undisputed that these windows would be further away from the proposed garden boundary than the TDG's recommended 10 metre separation distance. However, irrespective of the informal status of the TDG, this intervening distance would be very short by any standard and would be likely to lead to a significant lack of privacy.
11. The overlooking impact would also be compounded by the limited size of the proposed garden and the position and proximity of the proposed dwelling's patio doors and paved areas to the shared boundary with No 22, which would be the areas of the garden that would most likely be used for sitting out. The use of obscure glazing within the front first floor windows of the proposed dwelling would not mitigate or overcome these concerns.
12. The other areas of land highlighted by the appellant as providing alternative garden space are shown on the plans to be largely used for car parking. Moreover, they would not offer the same accessibility, convenience, or privacy as a reasonably sized private amenity area. I am mindful that the submitted historic photographs indicate that a building previously occupied a similar position on this land. However, on the evidence presented it appears that this was used as a sweet factory, and I cannot be certain that it represents a direct parallel to the appeal proposal. In any case, this has been demolished, and no longer forms a part of the immediate local context.
13. I am aware that the TDG sets out that the private garden space requirement may be relaxed in certain town centre locations where higher densities are warranted. Nonetheless, the proposal is not high density and there is little before me to suggest that higher densities are called for in this location. Furthermore, the evidence before me indicates that the properties without rear garden areas, that the appellant has referred me to, formed a complex of Victorian terrace buildings historically associated with commercial and industrial uses. As such their circumstances are not directly comparable to those which apply to a proposal for a new detached dwelling.
14. My attention has also been drawn to previous planning applications on the site¹. However, on the evidence presented I cannot be certain that they represent a direct parallel to the proposal. In any case, I have determined the appeal based on its own planning merits and the evidence before me.

¹ 94/1112/P, 07/01872/FUL and 21/00627/FUL

15. As such, I find that the proposal would not provide acceptable living conditions for future occupiers, arising from the lack of privacy and limited garden size. It would thereby conflict with Policy 44 of the Doncaster Local Plan 2015-2035 (2021). This seeks to create high quality residential environments through good design, including adequate provision of amenity and garden space, and protecting the privacy of neighbours or the host property. Conflict would also arise with paragraph 135 of the Framework which seeks a high standard of amenity for existing and future users.

Other Matters

16. Neither main party has raised any objections to the effect of the proposed development on the Conisbrough Conservation Area. In reaching my decision I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Given the relatively secluded location of the site I agree that the proposal would not harm the significance of this heritage asset. On this basis, I am satisfied that it preserves those interests.
17. In reaching my findings I have had regard to several factors that have been put to me in favour of the proposal. These include the efficient use of previously developed land, the renovation and re-use of the toilet block, and the design and supply of an additional dwelling within walking distance of the town centre. The improvements to the surfacing and lighting of the site, along with potential highway safety and biodiversity benefits have also been put forward. In addition, I appreciate that the proposal would provide a home to occupiers who would spend and contribute to the local economy. Nonetheless, given that the proposal is for only 1 dwelling any benefits in these respects would be contextually somewhat limited.
18. Furthermore, the derelict appearance of the site and the presence of the existing dilapidated outbuilding does not in itself justify the grant of permission for an otherwise unacceptable proposal. Whilst I have also considered the appellant's reference to other sections of the Framework, these, nor any of the other factors above would overcome or outweigh the harm that I have identified.
19. The appellant's concerns about the Council's handling of the planning application are noted and I have been made aware of a complaint that has been registered regarding the case officer's conduct. It is also common ground that the proposed scheme was amended to take account of design advice from the Council's Conservation Officer. Nevertheless, these matters have had no bearing on my determination of the appeal as I have only had regard to the planning merits of the case. Similarly, issues relating to land ownership have also not had any material bearing on my assessment of the planning issues in this appeal.

Conclusion

20. For the reasons given above, there are no material considerations that warrant taking a decision otherwise than in accordance with the development plan when taken as a whole. The appeal should therefore be dismissed.

Mark Caine INSPECTOR