



Appeal Decision

Site visit made on 27 February 2024

by N Kempton BA(Hons) PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2024

Appeal Ref: APP/F4410/W/23/3330062

133 Sunderland Street, Tickhill, DONCASTER DN11 9ES

- 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 Mr Nick Saul against the decision of the City of Doncaster Council.
 - The application Ref is 22/02587/FUL.
 - The development proposed is erection of a replacement dwelling and the erection of a new dwelling following the demolition of an existing commercial building at the rear, including associated works and the creation of a new access.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the surrounding area; and,
 - the living conditions of neighbouring occupiers with particular regards to privacy, outlook and light.

Reasons

Character and appearance

3. The appeal site comprises a two-storey dwelling, 133 Sunderland Street, which is positioned on the site frontage, at the back of the pavement and orientated with eaves to the street. Towards the rear of the site is a large former commercial building, now redundant. This warehouse is industrial in scale and appearance. The remainder of the site is taken up with some garaging and extensive areas of hardstanding which has been overgrown by vegetation and scrubland. The site boundary comprises a mix of fencing and overgrown mixed hedging.
4. The surrounding area is characterised by predominantly residential development. Residential streets bordering the site include: Sunderland Place, which is characterised by two-storey, semi-detached dwellings constructed of red brick with hipped roofs and chimney stacks; and Meadow Drive, which is characterised by a mix of single-storey dwellings and two-storey dwellings constructed of brown brick, typically with gabled roof forms. On the opposite side of Sunderland Street, houses are predominantly two-storey, arranged with eaves to the street and perpendicular to it. The age, style, form and material

palette of dwellings is mixed. There are some painted render facades in the street reflecting that of the frontage property on the appeal site.

5. Plot 1: The Council considered the proposed replacement dwelling on Plot 1 to be acceptable in terms of its overall design, layout and appearance, subject to securing further details by condition, such as the proposed material palette and window treatments. I find no reason to disagree with their assessment.
6. Plot 2: The proposed dwelling on Plot 2, sited to the rear of the site, is large. It would appear incompatible sited alongside smaller dwellings. Whilst I note the revised plans, which omit the accommodation (5th bedroom and storage) in the roof space, the proposed dwelling would be a monolithic mass, with a large footprint and a complex roof plan, necessitated by the substantial accommodation proposed.
7. It is acknowledged that the proposed dwelling on Plot 2 would replace the existing, semi-derelict commercial building, which presently occupies this part of the site and is itself a large building by reason of its former function. Surrounded as it is by much more modest, residential development, it appears incongruous by reason of its siting, scale and former function. However, it has all the characteristics of a large, commercial building. Its scale reflects its former use; whereas the proposal for Plot 2, would have the scale less of a house but more of a large commercial building, at odds with the domestic scale of the houses which characterise this area.
8. Furthermore, the scale of the proposed dwelling on Plot 2 would be substantially larger than the replacement dwelling on Plot 1. It would unbalance the hierarchy of building forms in the street, where larger properties typically have a street frontage with smaller buildings, where there are any, behind. As proposed, the dwelling on Plot 2 would fail to respect the scale of the houses which characterise the local context and the hierarchy of scale within its pattern of development.
9. As such, the proposed dwelling on Plot 2 would fail to reflect the scale and massing of residential properties in the immediate vicinity. By reasons of scale and massing, the proposed dwelling on Plot 2 would fail to satisfactorily integrate with the established pattern of residential development.
10. I observed large residential dwellings in the wider locality- both with wide facades orientated to the street and dwellings that are deep in plan extending to the rear. However, the residential properties in Meadow Drive and Sunderland Place are modest in scale and form, with compact footprints, such that the scale and massing of the proposed dwelling on Plot 2 would appear incongruous and assume undue prominence to the detriment of the character and appearance of the area.
11. I appreciate that the position of the house on Plot 2, behind the frontage house, would diminish its bearing on the street scene. Nevertheless, given its size, and the gaps between houses, the effects of its size would be very much present in the surrounding area.
12. Demolition of the existing commercial building and residential redevelopment of the site constitutes the potential to enhance the site with a development that better reflects the pattern of development and positively contributes to the

character of the area. However, this potential does not in itself justify the scale of development proposed on Plot 2.

13. For these reasons, the proposed development would cause significant harm to the character and appearance of the area. It would fail to accord with policy 41 of the Doncaster Local Plan (2021) (LP), which requires development proposals to respect and enhance identity, character and local distinctiveness; to respond positively to their context, setting and existing site features, respecting and enhancing the character of the locality; and to integrate visually and functionally with the immediate and surrounding area at a settlement, neighbourhood, street and plot scale. It would also be contrary to policy 44 which says that modest redevelopment on backland sites may be considered acceptable, subject to proposals being subservient to the host property, and requires proposals to respond positively to the context and character of existing areas and to create high quality residential environments through good design. The proposal would conflict too with policy H4 of the Tickhill Neighbourhood Plan, which requires proposals for new housing to be of a size, scale and height that is appropriate for its location and the size of the plot.

Living conditions of neighbouring occupiers

14. Privacy: The first-floor flank windows of the house on Plot 2 would serve bathrooms. Subject to these being obscure glazed, there would be no risk of loss of privacy to neighbours from overlooking from these rooms. The houses on both Plots 1 and 2 would include windows lighting habitable rooms at first floor. However, given the oblique alignment of the windows in relation to the site, the existing planting on site boundaries, the distance from surrounding houses, and the location of the development in the built-up area where there is a commonly accepted degree of mutual overlooking, there would be no material loss of privacy to surrounding occupiers, neither in their houses, nor their gardens.
15. Outlook and light: I have had regard to the bearing of the present building in the outlook and on the light received by the occupiers of 2 Meadow Drive. I have also taken into account the lower ridge of the house on Plot 2, its setting down into the ground, its form and mass, and its shortened footprint, compared to the building it would replace.
16. However, it would extend past the northern section of 2 Meadow Drive, which is the most sensitive part of its occupiers' back garden. Overall, the outlook from the back garden of 2 Meadow Drive would be severely curtailed. Given the size of the garden of 2 Meadow Drive and its enclosure, the living conditions of these occupier's would be significantly harmed by the siting of the house on Plot 2.
17. Given the existing building, and in the absence of substantive evidence of the effect on light as claimed by the Council, I do not find any overshadowing from the proposal that could be described as harmful to the living conditions of surrounding occupiers. I also note that the siting of the house on Plot 2 would bring an improvement to the light and outlook from 4 Meadow Drive, compared to the existing condition. This would not, however, mitigate the harm I have identified.
18. I conclude that the living conditions of the occupiers of 2 Meadow Drive with particular regard to outlook, would be significantly harmed by the proposed

development, placing it in conflict with LP policies 10 and 44 which protect existing amenity and require development not to significantly impact on the living conditions of neighbours including private gardens, or be overbearing.

Other Matters

19. The appellant has advanced the fallback position of converting the existing commercial building to a dwelling. This demonstrates a keen desire to secure residential development on this site, and a greater than theoretical possibility of the appellant pursuing the fallback position. The appellant considers that the appeal proposal presents a more attractive proposition, not least because it would remove the existing commercial building and deliver environmental and visual benefits.
20. There are no details before me in terms of drawings, or any compelling evidence such as planning permission or a Certificate of Lawful Development, to describe the residential conversion of the existing building.
21. I cannot therefore conclude that the fallback would be significantly more harmful than this proposal, which limits any weight I can afford it. The fallback position would not outweigh the harm I have identified.
22. I have had regard to my duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Tickhill Conservation Area. Given the distance to the conservation area boundary and the built form density of the urban area, the proposed development would not harm the significance of the conservation area, which would be preserved in accordance with the Act. Similarly, the proposed development would not harm the setting of listed buildings within the conservation area or the setting of 137 Sunderland Street, which is a listed building located to the east of the appeal site.
23. I recognise the failure of this appeal could affect the living arrangements for the appellant. I have had due regard to Article 19 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), the Human Rights Act 1998 (HRA), and to the Public Sector Duty (PSD) under Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, advance equality of opportunity and access, and foster good relations between persons who share a protected characteristic and those who do not share it. Disability is a relevant protected characteristic to which the PSD applies.
24. These rights are engaged in reaching my decision and I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key. I recognise that the proposed development has been designed to meet the appellant's personal circumstances and specifically to enable care of a dependant adult with a protected characteristic and does not include other extraneous accommodation. Given the limited evidence on the protected characteristic and the accommodation proposed, I attribute moderate weight to the benefits of the proposal in this regard.
25. I have had regard to all representations including comments from local residents and Tickhill Town Council. However, they do not lead me to a different overall conclusion on the main issue and policy conflict identified.

Planning balance

26. The proposed development would contribute an additional dwelling to the area's housing supply- an important consideration in the context of the Government's objective to boost significantly the supply of homes. It would also bring some uplift to the local economy from construction services and the patronage of local business and services of future occupiers. Removal of the existing redundant commercial building would constitute a degree of enhancement to the amenity and character of the area.
27. There would also be a benefit to the occupiers of 4 Meadow Drive, in terms of light and outlook, by the siting of the replacement building. Replacing the existing building of uncertain prospects with the more enduring use proposed would give certainty to surrounding occupiers as regards the future of the site.
28. I have had due regard to the Equality Act 2010, and the UNCRPD. I acknowledge that the proposed living accommodation would deliver benefits related to a person with the protected characteristic of disability. The negative impacts of dismissing the appeal on the appellant arise since they would be unable to deliver the proposed dwellings as sought, and the care requirements in terms of living conditions would not be met in this regard. Furthermore, there is a chance that the appellant's specific needs would not be met if an acceptable alternative could not be put forward. As such, I give this matter moderate weight.
29. All these positive factors do not outweigh the significant harm arising from the failure of the proposal to respect the character and appearance of the surrounding area and the significant harm the proposed development on Plot 2 would have on the living conditions of neighbouring occupiers.
30. Having due regard to the appellant's specific needs regarding the care requirements in relation to a dependant adult with a protected characteristic, and to the need to eliminate discrimination and promote equality of opportunity, I have concluded that the interference of rights is necessary and proportionate in dismissing the appeal, in view of the legitimate and well-established planning policy aims to protect the character and appearance of the area and the residential amenity of neighbouring properties. Even taken alongside the other considerations, including the benefits of the proposal related to a person with the protected characteristic of disability, the PSED considerations would not outweigh the harm I have identified.

Conclusion

31. For the reasons given, the development is contrary to the relevant policies of the development plan when read as a whole and there are no material considerations to indicate that a decision should be taken other than in accordance with that plan.
32. The appeal is dismissed.

N Kempton

INSPECTOR