



Appeal Decision

Site visit made on 24 October 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2024

Appeal Ref: APP/F4410/W/24/3346671

Land to Rear of 23 Oak Crescent, Thorne, Doncaster, South Yorkshire DN8 4HJ

- 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 Lawrence Cunningham against the decision of City of Doncaster Council.
 - The application ref is 22/00548/FUL.
 - The development proposed is detached bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the heading above has been taken from the planning application form which differs from that on the Council's decision notice. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues in this appeal are:
 - Flood risk;
 - The living conditions of future residents in respect of living space and residents of nearby properties in respect of privacy; and
 - The character and appearance of the area.

Reasons

Flood Risk

4. The appeal site is within Flood Zone 3a and therefore has a high probability of flooding. The proposed detached bungalow would also be within the 'More Vulnerable' flood risk classification. On that basis, the proposal would be subject to the Sequential Test as set out in the National Planning Policy Framework (the Framework) and Policy 57 of the Doncaster Local Plan 2021. The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

5. The appellant has submitted a Flood Risk Assessment (FRA) which states that as the development is a minor change of use it is therefore not subject to any sequential or exception test. However, this is not the case, as the proposal is for built development at risk of flooding, and does not represent a form of development where the Sequential Test does not need to be applied, including the exclusions listed in Footnote 60 of the Framework.
6. The FRA proposes mitigation measures which aim to remove the risk to the occupants of the building. However, the Sequential Test still needs to be applied before considering whether a development would be safe from flooding for its lifetime. A condition regarding structural stability under flooding conditions or the provision of flood barriers would not overcome the need for this Test.
7. I therefore conclude that due to the lack of a Sequential Test it has not been demonstrated that the proposal would be appropriate in this location. The proposal would therefore be contrary to the flood risk management requirements of Policy 57 of the Local Plan and the Framework.
8. It may be that the proposal could be designed to meet the drainage requirements of Policy 56, but this does not overcome the planning policy requirements for the Sequential Test.

Living Conditions

9. Policy 45 of the Local Plan requires development to meet the Nationally Described Space Standard (NDSS), and based on the evidence before me the proposal would not do this.
10. Due to the proposed floor levels, a bedroom window on a side elevation would enable an elevated and intrusive degree of overlooking of neighbouring dwellings and gardens, with significant harm to the living conditions of neighbouring residents in respect of privacy.
11. The appellant submits that these matters can be addressed through a small redesign of the proposal. However, even minor amendments can lead to unforeseen material harm to future residents and those of neighbouring properties. I must therefore determine this appeal on the basis of the submitted plans which have been subject to consultation.
12. I therefore conclude that the proposal would not provide suitable internal living space for future residents and would lead to significant harm to the living conditions of nearby residents with regards to privacy. The proposal would therefore be contrary to the amenity requirements of Policies 10, 44 and 45 of the Local Plan. The proposal would also be contrary to the Framework which seeks to provide a high standard of amenity for existing and future users of development.

Character and Appearance

13. The appeal site consists of a self-contained plot of land to the rear of dwellings on Oak Crescent. There is an existing vehicular access to the site from Oak Crescent passing through a gap in the street frontage.
14. The dwellings on Oak Crescent are of a consistent design and regular arrangement, which gives the streetscape a pleasant and uniform rhythm.

However, due to the appeal site's location to the rear of these dwellings the proposed bungalow would not be readily visible in views of the streetscape. Although there would be glimpsed views of the dwelling through gaps in the existing dwellings, it would be viewed against the backdrop of the varying forms of development to the rear, which do not follow as regimented a form or pattern of development as those on Oak Crescent. Within this context, the proposal would not be an unduly obtrusive or incongruous feature.

15. The proposed bungalow would be of a relatively awkward design due to its raised floor level. However, this element of the proposal would not be readily visible from the public realm, and due to the degree of screening from surrounding development the appearance of the building would not be sufficient reason to withhold planning permission. Furthermore, due to its backland position, it makes little contribution to the appreciation of space in the area, and the proposal would not be apparent as overdevelopment even given the limited size of the site.
16. The development would utilise an existing vehicular access, and based on what I have seen and read the parking of vehicles associated with the proposal would reflect that which could happen in respect of the current site.
17. I therefore conclude that the proposal would not harm the character and appearance of the area. The proposal would therefore not be contrary to the design and character requirements of Policies 41, 42 and 44 of the Local Plan. The proposal would also not be contrary to the Framework in respect of achieving well-designed and beautiful places.

Other Matters

18. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. A direction of travel has been outlined within the Written Ministerial Statement (WMS) 'Building the homes we need', which I give significant weight as a material consideration. However, given the limited scale of the development, the benefits of the proposal, including to the supply and mix of housing, would be very limited. The adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The WMS and the proposed reforms to the Framework do not negate my conclusions on this appeal.

Conclusion

19. Notwithstanding my conclusions in respect of character and appearance, the proposal would conflict with the development plan and the Framework when read as a whole with regard to the consideration of flood risk and living conditions. The proposal would conflict with the development plan and there are no other considerations that outweigh this conflict. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR