



Appeal Decision

Site visit made on 16 October 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/F4410/W/24/3344395

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 Mr Richard Hill against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref is 23/02545/FUL.
 - The development proposed is described as: 'Erection of detached building, part dwelling/part store with bin stores opposite'
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Decision

1. The appeal is allowed and planning permission is granted for erection of detached building, part dwelling/part store with bin stores opposite at 9 Wellgate, Conisbrough, Doncaster DN12 3HW in accordance with the terms of the application, Ref 23/02545/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Grade I listed Church of St. Peter¹ is nearby. The site also lies within the Conisbrough Conservation Area (the CA). I have therefore had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The landscaping plan and proposed site layout also show internal layouts within the footprint of the proposed building. These internal layouts show an earlier iteration of the design with downstairs residential accommodation and openings out onto the garden area. Nonetheless, the appeal scheme includes detailed floor plans, showing the living accommodation restricted to the first floor, as proposed, upon which I have based my decision. I have taken the landscaping plan and proposed site layout plan into account insofar as they relate to matters of landscaping and the layout of the site.

Main Issue

4. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers with particular regard to outlook and privacy.

Reasons

5. The appeal site is a parcel of land located to the rear of properties that front Church Street and Wellgate. These are reasonably tall two storey and three

¹ Ref 1192787.

storey buildings, some with ground floor commercial units with residential apartments above. The rear elevations of these properties, all of which include windows, face onto the appeal site and, aside from the gap formed by the access into the site from Wellgate, enclose it to three sides. The northern boundary of the appeal site is defined in part by a low stone wall. This is a retaining wall and there is a significant change in levels between the appeal site and the adjacent access road serving the rear of properties fronting Castlewell which lies to the north.

6. It is proposed to construct a two storey building comprising of a commercial store/workshop to the ground floor with residential accommodation at first floor. The residential accommodation would be accessed via stairs from a central doorway in the west elevation, which would be located between two pairs of double doors serving the store/workshop below.
7. The first floor living accommodation would comprise of an open-plan combined kitchen, dining and living space with a separate bedroom and bathroom. The living accommodation would have windows to the north and west, whilst the bedroom would have a window to the north. The window to the right hand side of the west elevation serving the kitchen area would look towards the rear of Hunters Cottage, resulting in a reasonably poor outlook. Nonetheless, those to the left of this, serving the open-plan living area would have more of an open view across the access road towards Wellgate. However, these windows are proposed to be obscure glazed which would also limit outlook.
8. Nonetheless, the north facing windows serving the living space as well as the bedroom would look out across the access road to Castlewell and, owing in part to the change in levels here, would have an open aspect and reasonably good levels of outlook. Therefore, whilst the three storey Church Street buildings would appear dominant in scale compared to the appeal proposal, this would not be apparent in views from within the dwelling, due to both habitable rooms benefiting from at least one window with a good level of outlook. I am therefore satisfied that the proposal would provide acceptable levels of outlook for any future occupiers.
9. Given the number of windows proposed, and the first-floor nature of the residential accommodation, I am satisfied that it would have reasonably good levels of natural light. Nonetheless, levels of direct sunlight are likely to be low and limited to the afternoon or early evening, due to the nature of the surrounding development. However, this is unlikely to be significantly lower than the levels experienced within the surrounding properties on Wellgate and Church Street. As such, having regard to the small-scale nature of the proposed accommodation, I am satisfied that the proposal would provide appropriate levels of daylight and direct sunlight for its future occupiers.
10. A small window located in the rear elevation of Hunters Cottage faces directly towards the appeal site, however given its scale and location, in line with the conclusion of the Inspector at a previous appeal at the site, this would not unduly affect privacy levels of future occupiers. Whilst further away, the Council sets out that the distance between the proposed first floor windows and those of 22 Wellgate would be less than the 21 metres set out in the Council's Transitional Developer Guidance (2023) (the TDG). However, notwithstanding that there is no guidance with regard to front to back distances, I am mindful that this is only informal guidance, and it therefore

carries limited weight in my decision. This is reinforced by the decision of the previous Inspector in that regard. Nonetheless, paragraph 3.4.17 of that document sets out that the impact of overlooking alters by the distance (window to window), the positioning and angle of windows, the type of room the window is for, or overlooks, and the type of glazing installed.

11. The proposed plans show obscure glazing to the windows facing 22 Wellgate. Whilst precise details would need to be supplied by a planning condition, I am satisfied that this would prevent overlooking from the appeal property towards 22 Wellgate and vice versa. This would ensure acceptable levels of privacy were provided.
12. The area of outside space proposed to serve the residential accommodation is small. Nonetheless, there would be sufficient room to park a vehicle and for the storage of refuse (within the converted toilet block). The majority of the useable garden space would be the area adjacent to the stone retaining wall which would lie to the north of the proposed building. As highlighted by the previous Inspector, this space is overlooked by a first-floor window at 22 Wellgate. The Inspector considered that the overlooking impact would be compounded by the proximity of proposed ground floor patio doors and a paved area to 22 Wellgate and the limited size of the garden, which he considered to be less than reasonable for a family-sized dwelling.
13. However, whilst the previous scheme sought accommodation with three bedrooms, the appeal scheme proposes a one bedroom unit. Moreover, there are now no patio doors proposed, with garden access to be gained via the door on the west elevation. Whilst the outside space would not be extensive, I am satisfied that it could easily provide adequate sitting out space commensurate with the scale of accommodation now proposed. Moreover, as this part of the site projects out from the rest of the site towards Castlewell, it is open to the north and east. In my view, the north eastern corner of this space is that most likely to be used by future occupants of the appeal proposal for sitting out. Based on the evidence before me, this would be in excess of 20 metres from the rear window at 22 Wellgate and, in that regard, I am satisfied that the garden would have adequate privacy levels.
14. For the above reasons, the proposal would not constitute poor design. I therefore conclude that the proposal would provide acceptable living conditions for future occupiers with particular regard to outlook and privacy. The proposal would therefore comply with Policy 44 of the Doncaster Local Plan (the LP) which sets out that proposals should provide a decent outlook for new homes, with adequate privacy, good access to daylight and sunlight, and adequate provision of internal living space, storage space, amenity and garden space. There would also be compliance with the provisions of paragraph 135 of the National Planning Policy Framework (the Framework) which seeks to ensure new developments provide a high standard of amenity for existing and future users.

Other Matters

15. Mindful of the statutory duty set out in section 66(1) of the Act, I have had special regard to the desirability of preserving the setting of the Church of St Peter, which lies beyond the Church Street properties in an elevated position to the south. The special interest and significance of this asset largely stems from its architectural and historic interest as an example of a twelfth century

church with Anglo-Saxon origins (eighth century, based on the list description). Its significance also derives from its elevated siting and its wider historic setting close to the centre of Conisbrough. The Victorian commercial development along Church Street is demonstrative of the area's development over time. Given the presence of these tall intervening buildings and having regard to the sensitive design of the scheme, I am satisfied that the setting of the listed building would be preserved by the proposed development and its significance, including the contribution made by its setting, would not be harmed. On this basis the proposal would meet the requirements of the Act, and the provisions within the Framework. I note that the Council concluded similarly.

16. Similarly, I have a duty under section 72(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA derives from its Anglo-Saxon origins, the dominant presence of Conisbrough Castle and the historic street pattern. As a site to the rear of the Victorian commercial properties, the appeal site makes a neutral contribution to the significance of the CA. The proposed building, reflective of the Victorian commercial character of the adjacent buildings with a similar orientation to Hunter's Cottage and the projecting wings of the Church Street properties further east, the appeal proposal would preserve the character and appearance of the CA. It would also conserve its significance. It would therefore comply with the requirements of the Act, and the provisions within the Framework. The Council concluded similarly.
17. I have had regard to the objections received from the occupiers of neighbouring properties. However, nothing I have seen would appear to prevent the development from being carried out within the confined area of the appeal site. Any development would be required to be carried out in accordance with the Building Regulations in that regard.

Conditions

18. I have amended certain conditions proposed by the Council, to ensure they meet the relevant requirements in the Framework without altering their aim. I have imposed conditions requiring compliance with the approved plans, and details of external finishes including windows and samples of the brick and roof covering, in the interests of certainty and in order that the proposal integrates appropriately with its surroundings and the CA as a whole.
19. The appellant has agreed to the conditions suggested by the Council. Pre-commencement conditions are required for drainage details and contaminated land assessment. These are reasonable and necessary in respect of ensuring sustainable drainage and public protection.
20. I have imposed a condition requiring the identified windows to be obscure glazed in the interests of preserving the living conditions of the occupiers of 22 Wellgate and ensuring adequate privacy levels for future occupiers of the proposed development. This requires details of the nature of the obscure glazing to be submitted and agreed due to the differences in gradings provided by different manufacturers.
21. Conditions requiring the access and parking area to be laid out prior to occupation and retained for parking are necessary in the interests of highway safety.

22. Due to the lack of detailed drawings and the need to preserve the character and appearance of the CA, I have imposed a condition requiring further details of the proposed development of the toilet block to form a bin store.

Conclusion

23. For the reasons given I conclude that the appeal should succeed.

Paul Martinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Map and Site Layouts; Proposed Plans and Elevations.
- 3) No development shall take place until a drainage strategy for the site has been submitted to and approved by the Local Planning Authority. The system shall be designed such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land and that there is capacity in the installed drainage system to contain below ground level the run-off from a 1 in 100 year rainfall event plus 40% on stored volumes as an allowance for climate change as set out in National Planning Practice Guidance. The drainage strategy shall include details of the drainage management and maintenance plan for the site. The drainage system for foul and surface water drainage shall be retained, managed and maintained for the lifetime of the development in accordance with the approved details and the management and maintenance plan.
- 4) No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved by the Local Planning Authority (LPA), unless otherwise approved in writing with the LPA.
 - a) The Phase I desktop study, site walkover and initial assessment must be submitted to the LPA for approval. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.
 - b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved by the LPA prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured

sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the LPA for approval.

c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.

e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

Should any unexpected significant contamination be encountered during development, all associated works shall cease and the Local Planning Authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA.

Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filing and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the LPA prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the LPA prior to any soil and soil forming material being brought on to site.

- 5) No development above ground level shall take place until samples of the proposed brick and roof coverings have been provided on site for inspection and approved in writing by the local planning authority. The

- development shall be carried out in accordance with the approved samples.
- 6) No development above ground level shall take place until samples or details of all windows and doors including heads to openings and sills, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples or details.
 - 7) No development above ground level shall take place until full details of the proposed design, size, location, materials and colour of any proposed flues, vents and meter boxes have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with approved details and thereafter maintained as such.
 - 8) No development to the former toilet block shall be carried out unless in accordance with details including elevation drawings that have first been submitted to and approved in writing by the local planning authority.
 - 9) The building hereby permitted shall not be occupied until the windows on the west elevation the have been fitted with obscured glazing as shown on the proposed plans. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
 - 10) The development hereby permitted shall not be occupied until the proposed vehicle parking and turning areas have been provided in accordance with the Location Map and Site Layouts Drawing. Thereafter those spaces shall be retained for the parking of vehicles only.

END OF SCHEDULE