
Appeal Decision

Site visit made on 16 May 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 June 2017

Appeal Ref: APP/B3030/W/17/3168578
Brownlows Hill, Coddington NG24 2QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Malcolm Parker against the decision of Newark & Sherwood District Council.
 - The application Ref 16/01840/FUL, dated 1 November 2016, was refused by notice dated 16 January 2017.
 - The development proposed is erection of 2 (No.) Three Bedroom Houses.
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Decision

1. The appeal is allowed and planning permission is granted for the erection two (no.) three bedroom houses at Brownlows Hill in accordance with the terms of the application, Ref 16/01840/FUL, dated 1 November 2016, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr Malcolm Parker against Newark & Sherwood District Council. This application is the subject of a separate Decision.

Procedural matter

3. At the request of the Parish Council my site visit coincided with the start of the school day.

Main Issues

4. The main issues in this case are whether the proposed development would preserve or enhance the character or appearance of the Coddington Conservation Area; the effect of the proposed development on highway safety and the availability of on street parking; and whether the proposed development would be consistent with the development strategy of the development plan.

Reasons

Conservation Area

5. The appeal site lies between Coddington Church of England Primary School, which appears to be a 1970s, predominantly single storey building, and no 2

Brownlows Hill which looks to be of a similar age, and lies opposite a range of traditional brick built properties of limited historic interest.

6. I have not been provided with a Conservation Area Appraisal of the Coddington Conservation Area. However, at my site visit I took the opportunity to walk around the wider area, where the buildings are predominantly constructed of a red brick, with clay pantiles, and are for the most part modest houses or cottages, such as Post Office Row. However, there are larger properties closer to the limestone All Saints Church.
7. I was able to observe a mix of open frontages, walled gardens and buildings which sit directly on the pavement within the dispersed rural settlement. I was also aware of examples of modern housing, such as Dell View on Balderton Lane.
8. From what I observed, the large mature trees, which in the summer months form attractive, substantial swathes of greenery, create an important cohesive element within the Conservation Area, which will remain important throughout the year. As such they are a significant aspect of the rural character and appearance of the Conservation Area. This is particularly the case close to the appeal site, where the trees soften and screen, as well as providing an attractive foil, to no 2 Brownlows Hill which is a relatively modern detached property which straddles the corner of Balderton Lane and Brownlows Hill.
9. I took the opportunity to look across the appeal site in the direction of Brownlows Hill, down from Main Street and across from Balderton Lane, and concluded that the bands of trees which are relevant to my consideration of the appeal fall outside the boundary of the appeal site.
10. At the time of my site visit, the hawthorn trees at the front of the property screened part of the site. However, they are much smaller than the trees on either side of the appeal site. Consequently, if they were lost there would be no significant impact on the wider views from within the village, albeit the loss of the greenery would have a local limited immediate impact. Concerns have been raised with respect to the larger trees on and adjacent to the site. In particular, trees T1, T4 and T7. T7 has already been felled following approval¹. Trees T1 and T4, an ash and a lime, are both located outside of the appeal site. However, in order to ensure that they are safeguarded from indirect impacts and to ensure that the long term health of the trees is maintained, I have imposed conditions to strictly control construction and any associated works to all potentially affected trees, both on and off the site.
11. Moreover, the soft and hard landscaping, as well as the boundary treatment required to ensure the security of neighbouring properties, is to be controlled by condition. This will ensure that the character and appearance of the Conservation Area is preserved or enhanced.
12. The design and detailing of the two cottages reflects the wider vernacular. As such, given my conclusions about the trees above, I conclude that whilst there clearly will be a change at the appeal site as it is to be built upon, the proposal would preserve the character and appearance of the Conservation Area and would be consistent with Policy CP 14 of the Newark and Sherwood Core Strategy adopted 2011 (CS) and Policies DM5 and DM9 of the Newark &

¹ 16/02143/TPO

Sherwood Allocations & Development Management Development Plan
Document, adopted 2013 (DPD).

Highway matters

13. At the time of my site visit I was able to observe children walking, cycling and skateboarding to school, as well as cars being parked on the pavements as children were dropped off by car. Whilst I appreciate the frustration and inconvenience that ensues for other road users, as traffic slows down and roads are temporarily blocked to two way traffic, such scenes are replicated across the country in residential areas close to schools. Moreover, there may be strategies available to reduce these problems. However, such matters are not before me. Nonetheless, I noted that even though I had arrived early to witness the school run, I found it difficult to find an on-street parking spot. This was due to a combination of the wide drives of the properties opposite the school, the long bus stop adjacent to the school, and the no stopping zig zag lines in front of the school.
14. I was aware that there were a number of cars parked on the street even during the day outside of the peak school drop off and pick up times and that on street parking is at a premium. However, the proposed access would not make any difference to the existing situation. This is because the access joins the road at a point where no cars can park legally. Indeed, I did not witness any cars temporarily stopping in the bus stop.
15. In addition, the proposed development would provide off street parking at the rear of the two houses, which I have ensured through the imposition of a condition, are to remain available throughout the lifetime of the development.
16. I note the concerns which have been raised relating to the potential conflict between buses which regularly stop at the bus stop and cars being driven in and out of the drive. However, in the absence of any technical evidence to support this, including the lack of an objection to the scheme by the Highway Authority, who I understand do object to developments close to schools where it is considered necessary, and from what I observed on site, I conclude that the proposed development would have no impact on highway safety and would not inconvenience or confuse other road users. As such, I conclude that the proposed development would accord with Policy DM5 of the DPD and Policy SP7 of the CS; would not create new, or exacerbate existing on street parking problems and would provide a safe access onto Brownlows Hill.

Development Strategy

17. S38 (6) of the Planning and Compulsory Purchase Act and Paragraph 2 of the Framework is clear that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Newark and Sherwood consists of the CS and the DPD. I understand that a review of the development plan is taking place. However, I have been given little information as to the stage it has reached.
18. Coddington is defined as an 'other village' within Policy SP1 of the CS, and as such any development is considered on the basis of Policy SP3 of the CS which sets out five criteria for development in the rural areas. These relate to location, scale, need, impact and character. Given my conclusions above, the

relevant matter relates to proven need for new housing. In the absence of a dedicated report demonstrating such need the proposed development would be contrary to Policy SP3 of the CS. However, in common, with the Inspector who determined the appeal (APP/B3030/W/16/3151592) on Main Street, I consider that such a requirement is not consistent with the provisions of the Framework and as such, I consider this aspect of the policy which was adopted prior to the publication of the Framework, to be out-of- date, and I therefore accord limited weight to the conflict with this particular provision of this policy.

19. The Council considers that it is able to demonstrate a five year supply of deliverable housing sites. However, I note within its Statement of Case that it reiterates that until the Council's Objectively Assessed Need and housing target has been taken to adoption that it will, *'continue to adopt a pragmatic approach for development which is acceptable in all other technical and environmental effects and which will boost the housing supply in the short term'*². Whilst I am unaware of whether this statement of intent carries any formal policy status, I consider this to add weight in favour of the proposed development, as I have found no technical or environmental harms associated with the proposal.
20. Therefore, I conclude that the proposed development would be contrary to Policy SP3 of the CS. However, whilst a breach of policy is just that, for the reasons outlined above I accord little weight to this conflict.

Other matters

21. Concerns have been raised that the privacy of those living opposite would be affected by the proposed development. However, it is commonplace for the front of houses to be separated by a road's width without adverse impacts on occupants' privacy. Moreover, the existing houses are set back off the road. Consequently, I am content that such fears would not be realised.
22. I have been referred by the Parish Council to the number of new dwellings which have recently been allowed in the village. However, this has not impacted on my consideration of the appeal, which I must undertake on the basis of its individual merits.

Planning balance and conclusion

23. I have found that the proposed development would be contrary to Policy SP3 of the CS. However, as I have concluded that the requirement to demonstrate proven local need renders this aspect of the Plan out of date I accord limited weight to this conflict. Paragraph 49 of the Framework states that housing applications should be considered in the context of sustainable development. Paragraph 14, states that, for decision-taking, this means, where relevant policies are out- of- date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole: or specific policies in the Framework indicated development should be restricted.
24. I have not found that level of harm to outweigh the benefits of two dwellings to the housing supply, nor have I found harm to the Conservation Area. The proposed development can therefore be considered to be sustainable development for which the Framework presumes in favour. Taken as a whole,

² Paragraph 2.13 of Council's Statement of Case

this is a material consideration such that determination may be made other than in accordance with the development plan.

Conditions

25. A schedule of conditions, with attached reasons was submitted with the Council's Statement of Case for consideration if I were minded to allow the appeal. I have considered those conditions, having regard to the six tests set out in the Planning Practice Guidance and have introduced some rewording and re-ordering in the interests of clarity and precision.
26. In the interests of certainty and proper planning I have imposed a condition requiring that the development be carried out in accordance with the relevant plans. In order to preserve the character and appearance of the Conservation Area I have attached a number of conditions controlling the appearance of the materials to be used in the proposed development, and the construction methods undertaken, including details of soft and hard landscaping. In the interests of highway safety I have imposed conditions relating to the access to the site.
27. In line with the Planning Practice Guidance I have not imposed a condition removing specific permitted development rights associated with the dwelling. This is because this would not meet the tests of reasonableness and necessity. Moreover, the Council has the powers under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order to enable them to withdraw permitted development rights across a defined area³.
28. Nor have I imposed a condition to avoid the disturbance of nesting birds as that is a matter for other legislation. However, in the interests of biodiversity I have required that provision be made for bats and the nesting of birds. I have also imposed a condition relating to surface water drainage to minimise the risk of surface water flooding.
29. I have provided both the appellant and the Council the opportunity to comment, as I have imposed controls over construction works, including the timing of deliveries and collections, and also required that the off street parking spaces which are to be provided should be kept available, so that additional on street parking is avoided, given the residential nature of the area, and the proximity of the school.

Conclusion

30. For the reasons given above I conclude the appeal should be allowed.

L. Nurser

INSPECTOR

³ Planning Practice Guidance ID:21a-017-20140306

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: no. 2B/17/2016 revision B and no. 5B/17/2016.
- 3) Notwithstanding condition 2, development shall not otherwise commence until details of the vehicular access serving the development and the junction between the proposed access road and the highway shall have been submitted to and approved in writing by the local planning authority; and the development shall not be occupied until that junction has been constructed in accordance with the approved details. The junction shall thereafter be retained.
- 4) Notwithstanding condition 3, no development shall commence until a detailed scheme for the internal access has been submitted to and approved in writing by the local planning authority, and no dwelling shall be occupied until the works have been constructed in accordance with the approved details. The scheme shall include full design details, specifications, and road markings, road surfacing, the provision of a dropped vehicular footway crossing and prevention of the unregulated discharge of surface water to the public highway.
- 5) No development shall take place until details of the treatment of windows including details of glazing and glazing bars (and clarification on the finish), door heads and cills, doors and their immediate surroundings, verges and eaves, rainwater goods, coping, extractor vents, flues, meter boxes, airbricks, soil and vent pipes, chimney and porch details including drawings at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development of buildings shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 7) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) existing and proposed finished levels or contours;
 - ii) means of enclosure;
 - iii) boundary treatments
 - iv) vehicle parking layouts;
 - v) hard surfacing materials;

- vi) proposed and existing functional services above and below ground, to include drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points;
- vii) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 8) The details submitted in accordance with condition 7 above shall include:
- i) a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed;
 - ii) a schedule in relation to every tree identified listing:
 - information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
 - any proposed pruning, felling or other work;
 - iii) in relation to every existing tree identified to be retained on the plan referred to in i) above, details of:
 - any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
 - all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
 - iv) areas of existing landscaping to be protected from construction operations and the method of protection.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 9) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from construction works;
 - viii) delivery, and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 12) No building on the site shall be occupied until details of the provision of one bird and bat habitat is submitted and approved, in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance with an agreed timetable and thereafter retained.
- 13) The car spaces to be provided shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.