



Appeal Decision

Site visit made on 1 August 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 10th August 2017

Appeal Ref: APP/B3030/W/17/3170017

Parkside, May Lodge Drive, Rufford NG22 9DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Michael Drury against the decision of Newark & Sherwood District Council.
 - The application Ref 16/01997/OUT, dated 24 November 2016, was refused by notice dated 13 February 2017.
 - The development proposed is erection of one four bedroom house.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of one four bedroom house at Parkside, May Lodge Drive, Rufford NG22 9DE in accordance with the terms of the outline planning application with all matters reserved Ref 16/01997/OUT, dated 24 November 2016 and subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

2. The appeal form indicates that the appeal relates to refusal of matters reserved under an outline planning permission. However, it is clear from the planning application form that the proposal is for outline planning permission with all matters reserved for future consideration and the decision notice reflects this. I therefore consider the appeal to be against the refusal of outline permission and have dealt with it on this basis.

Main Issues

3. In relation to rural areas, Spatial Policy 3 (SP3) of the Newark and Sherwood Core Strategy (the CS) states, among other things, that local housing need will be addressed by focusing housing in sustainable, accessible villages. Rufford is defined as an 'other village' within Policy SP1 of the CS, and therefore Policy SP3 of the CS, which sets out the five criteria of location, scale, need, impact and character for assessing development in the rural areas, applies.
4. I therefore consider that the main issues for the purposes of this appeal are: the effect of the proposed development on the character and appearance of the area, having particular regard to spaciousness and trees; and whether the proposed development would be consistent with the development strategy of the development plan.

Reasons

Character and appearance

5. May Lodge Drive is to the south of Rufford Abbey and Country Park (the Country Park) and is characterised by a number of large properties set in well vegetated gardens. The dwellings are of very mixed sizes, designs and ages set in spacious gardens. Many have been extended and some have been/are being re-developed. Most are well set back from the road edge and side boundaries. In other cases buildings are close to boundaries including the neighbouring property, Lime Tree House, which is a narrow path width from the boundary with the appeal site.
6. Most properties are enclosed with a variety of hedges, walls or fences so that, combined with the numerous trees in gardens, from the road many of the dwellings can only be glimpsed through the vegetation. In contrast, the fronts of the appeal site, Parkside and two bungalows across May Lodge Drive, have no front enclosure and are open to the road. The majority of the appeal site, together with other land around Parkside, is lawn with a number of mature trees. Between the lawn and the boundary of the Country Park is a wide strip of mature woodland which would not be directly affected by the development as proposed.
7. Parkside is a substantial two storey house with a large garage to the side. The evidence indicates that in the past the land at Parkside and the appeal site together were intended to be two building plots although no plans have been provided to show this. The appeal site would be some 38-39m long and 18m wide¹. This would be narrower than the other properties on this stretch of May Lodge Drive. However, in view of the varied sizes and shapes of gardens along May Lodge Drive I conclude that the shape and size of the appeal site would not be so out of character as to justify refusal on that basis.
8. No illustrative plans were submitted with the application. Nevertheless, the site would be sufficient in overall size to accommodate a dwelling. The appellant has proposed that the front of the dwelling could be no further forward than the front of Parkside. I conclude this would protect the spacious character of the area as viewed from the road and could be secured by condition.
9. I acknowledge the concerns about the siting of the proposed dwelling in relation to the side boundaries of the site. However, due to the site width, and with careful design, I consider a four bedroom house of a suitable appearance could be accommodated within the site without walls being so close to the side boundaries as to create a cramped environment and without harming the grain of the area. During my site visit I observed windows and a glazed door in the side elevation of Lime Tree House through gaps in the otherwise thick hedge along the boundary between that property and the appeal site. The Council would have full control of the siting, scale and appearance at a reserved matters stage. The Council considers that a property could be designed which did not significantly detract from the living conditions of neighbouring residents and based on what I have seen and read I see no reason to reach a different view.

¹ Paragraphs 4.21 and 4.23 of the appellant's Statement of Case

10. There are a number of individual mature trees within the site that add to the overall leafy character of the area. Some of these would be removed to facilitate the proposed development. However, they are not protected trees and could be felled at any time. Moreover I note that some are multi-stemmed and/or are leaning. With appropriate replacement planting I conclude that the loss of some of the trees would not be sufficient reason to justify refusal of the proposal.
11. For the reasons set out above I conclude that, whilst the character of the appeal site itself would change from grass with mature trees, the overall spacious leafy character and appearance of May Lodge Drive would not be so adversely affected by the proposed development as to justify withholding permission. Accordingly I conclude that the proposal would not conflict with Policy SP3 of the CS in terms of scale, impact and character, or those aims of Policy DM5 of the Allocations and Development Management Development Plan Document (the DPD), the National Planning Policy Framework (the Framework), and the Planning Practice Guidance (the PPG) that seek good design that respects the local distinctiveness and character of the area.

The Development Strategy

12. Planning applications and appeals should be determined in accordance with the development plan unless material considerations² indicate otherwise. The development plan includes the CS and the DPD. The evidence indicates that the Local Plan Review is underway and the target date for adoption as currently identified in the Local Development Scheme Timetable is March 2018.
13. Given my conclusions above, I turn now to consider the location of the site and whether a proven need for new housing in accordance with the remaining criteria of Policy SP3 has been demonstrated.
14. The appeal site is within the built up area of Rufford. The Council raises no objections to the location of the site or to an additional dwelling within Rufford in principle. There is access to a bus service and some prospect that some journeys may be made by public transport. There are facilities available in nearby Edwinstowe, Bilsthorpe and Farnsfield and some leisure facilities at the Rose Public House and at the Country Park. On this basis I see no reason to reach a different conclusion to the Council in respect of the location of the site.
15. Although the appellant has submitted some limited information from an estate agent a dedicated report demonstrating a proven need for new housing has not been provided. In its absence the proposed development would be contrary to Policy SP3 of the CS. However, in common, with Inspectors who have determined other recent appeals³, I consider that such a requirement is not consistent with the provisions of the Framework.
16. I note that the Council disagrees with the Inspector regarding the Objectively Assessed Housing Need at the time of an earlier appeal⁴. The Council considered that at the time of deciding the proposal before me it was able to demonstrate a five year supply of deliverable housing sites. The submitted "Statement of Five Year Housing Land Supply" dated 1 April 2017 shows a deliverable supply of 6.2 years against a requirement from the emerging Local

² Section 38 of the Planning and Compulsory Purchase Act 2004

³ Including APP/B3030/W/16/3151592; APP/B3030/W/17/3168578

⁴ APP/B3030/W/16/3158075

Plan, including a 20% buffer and meeting the shortfall⁵. However, I note that the Council in the Delegated Officer Report in relation to the local need criterion of Policy SP3 acknowledges *".. that the 'need' for housing carries a reduced weight given the position with regards 5 year land supply, in that until such time as the Objectively Assessment Need has been tested by the Plan Review Process the Council is taking a pragmatic approach by relaxing the 'need' criterion of SP3 where all other matters are satisfied in order to boost housing supply in the interim"*. 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 the proposal acceptable in other respects.

17. For the reasons set out above I find limited conflict with part of Policy SP3, in respect of the lack of a proven local need for housing. However, the site is not in the open countryside and would help in boosting the overall supply of housing. I conclude that, taken as a whole, the proposal would not be inconsistent with the development strategy of the development plan.

Other Matters

18. Local residents have referred to traffic and the poor quality of the road surface. However, neither the Council nor the Highway Authority has raised concerns in respect of the effect of one additional dwelling and I have no substantive basis to reach a different view.
19. Local residents have suggested that allowing the appeal could set a precedent for other dwellings in gardens which could further detract from the character and appearance of the area. Each application and appeal must be considered on its own merits. I have concluded that, in this case, the particular site characteristics indicate that no material harm would arise and the details of the proposed development are for future consideration. On this basis this appeal decision would not set a precedent for development elsewhere that did not satisfy planning policies and where material harm would arise.

Planning Balance and Conclusion

20. I have found that the proposed development would conflict with that part of Policy SP3 of the CS in relation to a demonstration of local need for housing. However, I have found that the proposal complies with the other criteria of Policy SP3 of the CS and Policy DM5 of the DPD in respect of the effect of the proposal on the location, scale, character and appearance of the area. I have found no other harm with respect to development plan policies. The proposal would assist in boosting the supply of housing in accordance with Paragraph 47 of the Framework. Overall I conclude for the reasons set out above that the harm caused by the partial breach of Policy SP3 is outweighed by the benefits of the provision of an additional dwelling given I have identified no other harm. I conclude that on balance the appeal should succeed.

Conditions

21. I have considered the conditions proposed by the parties in the light of the advice in the Framework and in the PPG. The Council has suggested reduced time limits for the submission of reserved matters and the implementation of

⁵ Subsequent to decisions in respect of appeal decisions APP/B3030/W/16/3161098, APP/B3030/W/15/3006252 and APP/P3040/W/16/3143126

the permission. However, in the absence of a specific justification for this, I see no reason not to impose the usual time limits relating to outline applications in this instance. It is necessary to ensure that the scheme is carried out in accordance with the approved plans to provide certainty. As set out above a condition restricting the positioning of the proposed dwelling is necessary in the interests of preserving the spacious character of the area.

22. In order to preserve the character of the area a Tree Protection Scheme and landscaping plan are required including provision for future maintenance.
23. In view of the lack of certainty regarding local infrastructure a condition to ensure satisfactory means of foul and surface water drainage within the site is a necessary requirement in the interests of public health and safety.
24. The PPG advises that conditions removing permitted development rights rarely pass the test of necessity and should only be used in exceptional circumstances. The detailed scale, layout and appearance of the dwelling will be determined as part of the reserved matters. However, in that context, and in interest of a satisfactory character and appearance in this spacious setting, I am satisfied that it is reasonable and necessary that permitted development rights are removed for extensions and fenestration (Class A), roof alterations (Classes B and C) and outbuildings (Class E). However, I see no justification to remove permitted development rights relating to porches (Class D), hardstanding (Class F), chimneys, flue or soil and vent pipes (Class G) or microwave antennas (Class H). I have, therefore, focused the restrictions accordingly in the wording of the condition.

SHarley

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) As part of the reserved matters application, the hereby approved dwelling shall be sited to ensure that the front elevation is positioned no further south, than the front elevation of 'Parkside'.
- 5) Prior to the commencement of works on site details of a Tree Protection Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Tree Protection Scheme shall include a Plan (Scale 1:200) to identify the trees within the site to be retained and

include a Method Statement and Tree Protection Plan (Scale: 1:200) to identify the tree protection measures (including details of any no-dig methods and protective fencing to BS: 5837) and the timescales for implementation of the Tree Protection Measures (to demonstrate that the tree protection measures will be implemented prior to any works commencing on site and shall be retained in situ until the development is complete and all construction vehicles and materials have been removed from the site). The development shall be carried out in accordance with the approved Tree Protection Scheme.

- 6) No development shall take place until details of both hard and soft landscaping materials have been submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping works shall include planting plans; written specifications (including cultivation and other operations associated with plant/tree and grass establishment); schedules of plants and trees, noting species, plant sizes and proposed numbers/densities; and details of existing trees to be retained, including their spread, girth and species. Development shall be carried out in accordance with the approved details prior to the first occupation of the hereby approved dwelling.
- 7) This permission relates solely to the site as denoted by the red line on the site location plan date stamped as received by the Council on 16 December 2016.
- 8) The development hereby permitted shall not begin until details of works for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority. The foul and surface water drainage scheme shall be carried out and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - a. a timetable for its implementation; and
 - b. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the drainage scheme throughout its lifetime.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) and other than as may be expressly authorised by this permission, no development within the following Classes of Schedule 2, Part 1 of the Order shall take place:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: Additions or alterations to the roof

Class C: Any other alteration to the roof of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse

End of Schedule of Conditions