
Appeal Decision

Site visit made on 9 October 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 24 October 2017

Appeal Ref: APP/B3030/W/17/3179638

Land to the rear of Franklyn, Lower Kirklington Road, Southwell NG25 0DX.

- 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 Steven Wendels against the decision of Newark & Sherwood District Council.
 - The application Ref 17/00623/FUL, dated 29 March 2017, was refused by notice dated 12 June 2017.
 - The development proposed is a proposed new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed new dwelling at land to the rear of Franklyn, Lower Kirklington Road, Southwell NG25 0DX in accordance with the terms of the application Ref 17/00623/FUL, dated 29 March 2017, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. I have taken the site address from the Appeal Form as this reflects the more accurate version used by the Council.

Main Issues

3. This is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site is located to the side of a recently constructed detached dwelling which forms part of a small development of 5 dwellings arranged around a private cul-de-sac. The site is set back some distance from Lower Kirklington Road and hence public views of the site are extremely limited.
5. Rather than the detailed design of the proposed dwelling, the principle issue is whether the development would represent over-development of the plot. It is evident from the submitted plans that the dwelling would occupy a smaller plot than some of its neighbours. However, that in itself does not make the development unacceptable particularly as there would be sufficient room for the requisite car parking as well as landscaping to the site frontage. The dwelling would be set in from its side boundaries and a small but nonetheless functional garden area would be provided to the rear. Although the garden

would be relatively small, the Council have not pointed to any local standards that might be breached if I were to allow the appeal. The plot size would in any event be comparable to the adjacent cattery building which is being converted to a dwelling.

6. Overall there would be some change to the character and appearance of the area, however, this would be modest and not readily apparent from the public domain. The Council has failed to provide cogent evidence to support its reason for refusal. I therefore conclude that the development would accord with Core Policies 3 and 6 of the "*Newark and Sherwood Local Development Framework Core Strategy 2011*" (the CS), Policy DM5 of the "*Newark & Sherwood Local Development Framework Allocations and Development Management DPD 2013*" and the "*National Planning Policy Framework*". Amongst other things, that all new development will be required to contribute positively to local distinctiveness and sense of place and should be in keeping with the general character and density of existing development in the area.
7. CS Policy So/HN/1 seeks to secure the majority of new housing as 1 or 2 bedroom units. However this is qualified by a requirement to consider local site circumstances. In this case, the provision of a smaller unit is likely to jar with the established character of the locality which comprises large dwellings occupying generous plots. It is also pertinent that the proposed unit would be a modest 3-bedroom property with limited floorspace above the ground floor level. Accordingly, there would be no material conflict with CS Policy So/HN/1.

Other Matters

8. Although highway safety is clearly a concern for the Parish Council and others, it did not form part of the Council's refusal reasoning. It is pertinent that there has been no formal objection from the Highway Authority. To my mind, the number of traffic movements generated by a single dwelling would be small. As a result, there is no sound basis on which to conclude that the development would pose a threat to highway safety or undermine the access works associated with another planning permission.
9. I have noted other concerns including the effect on privacy and daylight on neighbouring residents. However, there is no compelling evidence which would lead me to conclude differently to the Council on these matters
10. Finally, it has been put to me that the Council has a 5 year supply of housing and Southwell has sufficient allocated sites to cover its housing targets. Whilst that may be so, housing targets should not be viewed as maxima with the Framework advising that the development proposals that accord with the development plan should be approved without delay.

Conclusion

11. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

Conditions

12. The Council has suggested 8 planning conditions which I have considered against the advice in the "*Planning Practice Guidance*" (the PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity.

13. I have imposed a plans condition as this provides certainty as to what is approved. A materials condition is necessary to ensure the satisfactory visual appearance of the development.
14. In the absence of any specific justification from the Council, I do not find it necessary to require the landscaping of a private garden. The suggested drainage condition is unnecessary as these details are shown on the approved plan and thereby captured by the plans condition. Given the existing residential use of the land I am not persuaded the suggested condition pertaining to bat and hedgehog boxes is necessary to make the development acceptable.
15. Finally, Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Similarly, the PPG advises that conditions restricting the future use of permitted development rights "*will rarely pass the test of necessity and should only be used in exceptional circumstances*". On the evidence before me, I am not persuaded that the Council has demonstrated that such circumstances apply in this instance. I am however satisfied that a condition to restrict additional window openings is necessary to protect the living conditions of neighbouring occupiers. I have amended the suggested condition accordingly.

D. M. Young

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall not begin later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 514-01 Rev C.
- 3) The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.
- 4) Prior to occupation of the dwelling hereby approved, drainage installation shall be carried out in accordance with the details shown on the approved plan and shall thereafter be so retained.
- 5) No additional windows shall be added into any elevation of the dwelling hereby approved unless consent has first been granted in the form of a separate planning permission.