



Appeal Decisions

Hearing held on 11 March 2020

Site visit made on 11 March 2020

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th June 2020

Appeal A - Ref: APP/B3030/W/19/3234051

Land off Lower Kirklington Road, Southwell, Nottinghamshire

Grid Reference Easting: 469657, Grid Reference Northing: 355073

- 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 Christopher Richardson (CAPLA Developments Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 18/01363/FULM, dated 16 July 2018, was refused by notice dated 10 June 2019.
 - The development proposed was originally described as 'Residential development for 105 dwellings.'
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Appeal B - Ref: APP/B3030/W/20/3244627

Land off Lower Kirklington Road, Southwell, Nottinghamshire

Grid Reference Easting: 469657, Grid Reference Northing: 355073

- 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 Christopher Richardson (CAPLA Developments Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 19/01771/FULM, dated 24 September 2019, was refused by notice dated 4 December 2019.
 - The development proposed is residential development for 80 dwellings.
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Decision

1. Appeal A is dismissed, and Appeal B is dismissed.

Application for Costs

2. At the Hearing, an application for costs was made by the appellant against the Council in respect of both appeals. These are the subject of separate Decisions.

Procedural Matters

3. The above description of development proposed in Appeal A is taken from the planning application form. The scheme was revised during the application process and the layout plan determined by the Council shows 80 dwellings and a signal controlled junction rather than the 105 dwellings and mini roundabout originally proposed. The amendments were subject to public consultation before the application was decided. Since no party would be prejudiced or caused any injustice by my doing so, I have considered the appeal on the basis of the revised description on the Council's decision notice and appeal form.

4. Appeal B relates to the Council's refusal of a second planning application, also for 80 dwellings. Rather than the signal controlled junction which was refused by the Council in the case of Appeal A, this resubmitted scheme proposed a mini roundabout. The Council refused the proposal on highway safety grounds.
5. During the course of the appeals, and prior to the linked Hearing, the appellant submitted revised proposed site layout plans in respect of both Appeal A¹ and Appeal B².
6. It is common ground between the main parties that the revised plan in relation to Appeal A satisfactorily addresses the Council's third reason for refusal relating to the dispersal of affordable housing throughout the site. The plan was the subject of public consultation and presented to Planning Committee in September 2019; no objections were raised to the amendments. The Council confirmed it was content for the plan to be considered at appeal. However, the revisions alter the affordable housing mix and so result in a new area of disagreement between the parties as to whether or not the proposed mix is appropriate.
7. The revised plan in respect of Appeal B swaps the proposed roundabout back to a signal controlled junction. The Council confirmed that it would not object to this in principle, given that public consultation on such a junction arrangement had been undertaken on the first planning application. In February 2020, members of the Council's Planning Committee considered the revised layout plan and resolved that, were they still the decision maker, they would object to the signal controlled junction on the grounds of its effect on the character and appearance of the area, consistent with their refusal of the first application.
8. In view of the above, since there would be no prejudice or injustice caused to any party by my doing so, I accepted the revised plans. This was confirmed in writing before the Hearing and reiterated when I opened the event. I have taken account of the Council's additional concerns about housing mix arising from the revised scheme in Appeal A, and the resultant putative reason for refusal in Appeal B relating to the visual effect of the proposed junction design.
9. After the Hearing, the appellant submitted new evidence relating to a proposed pedestrian crossing on Lower Kirklington Road at the Burgage crossroads in Southwell. I considered this information to be material to my decision. Therefore, in accordance with Rule 14(3) of The Town and Country Planning (Hearings Procedure) (England) Rules 2000 the Council was afforded an opportunity of making written representations or of asking for the re-opening of the Hearing. In reaching my decision, I have taken account of the written representations received from the Council in relation to this matter.
10. Following the close of the Hearing, completed planning obligations under s106 of the Town and Country Planning Act 1990 (as amended) were submitted in respect of both appeals. These would secure 24 affordable housing units, contributions to bus stop infrastructure, access maintenance, community and health facilities, and the delivery, maintenance and management of public open space. I have had regard to these obligations during my consideration of the appeals.

¹ 618-2-001 Rev H

² 618-2-001 Rev O

Main Issues

11. Having regard to the evidence before me, including the Council's reasons for refusal and putative reasons for refusal and representations from interested parties, the main issue in relation to both Appeal A and Appeal B is:
 - (a) Whether the appeal proposals would achieve a well-designed place, with particular regard to the site's gateway context, local character, public spaces and movement.
12. Additionally, in relation to Appeal A only:
 - (b) Whether the appeal proposal would provide a mix of housing types and sizes that appropriately reflect local housing need.

Reasons

13. The appeal site lies at the north west edge of Southwell and forms part of a wider site allocated for the development of around 60 dwellings under both Policy So/Ho/5 of the Newark & Sherwood Local Development Framework Allocations & Development Management Development Plan Document (DPD) and Policy SS5 (Ho/So/5) of the Southwell Neighbourhood Plan (NP). The site comprises a series of fields bounded by mature hedgerow and dissected by public rights of way which link Lower Kirklington Road to the south with the Southwell Trail, a dedicated bridleway, to the north. There is established residential development to the east and south; to the west and north the site is surrounded by allotments and farmland.

First Main Issue: Design

Gateway context

14. Access to the proposed development would be from Lower Kirklington Road, where a 4 arm signal controlled junction would be created at the junction with Kirklington Road. This existing junction is situated at a gateway into Southwell. To the west of this point, Lower Kirklington Road is derestricted and unlit, lined by hedgerows with a largely open landscape beyond. Immediately to the east of the junction the speed limit reduces to 30mph, the town name sign is displayed, and hedgerows give way to front garden boundaries thus marking the transition from the countryside into the settlement. The section of Kirklington Road south of the junction has a distinctly rural feel, with an unlit narrow carriageway bounded by grass verges and hedgerows, which creates a clear delineation between the town and surrounding countryside.
15. The proposed junction would widen the carriageway on Lower Kirklington Road, in so doing removing sections of hedgerow. Pedestrian refuges would be formed to the east and west of the site access and the verges reconfigured to provide footways and increased visibility splays. These works would alter the rural character of the road, introducing a distinctly urban form. The traffic signals would not break the skyline and would be largely seen against the backdrop of vegetation. However, the appellant's Landscape and Visual Impact Assessment Addendum notes they would 'introduce an uncommon and incongruous feature into the landscape in this location' which would change the 'free-flowing nature of the existing transition between the countryside and the settlement', resulting in vehicles stopping or slowing.

16. At the Hearing, the appellant made reference to representations made by Nottinghamshire County Council (NCC) in response to consultation on the site allocation³ which raised concerns regarding the subject of highway access. The document highlights a number of issues to be addressed, including the need to consider the highway concerns raised by NCC and explore potential methods of mitigation. However, whilst it refers to a mini roundabout, this is expressed in the language of possibility rather than certainty. I have no substantive evidence to demonstrate that junction arrangements were considered in any detail at site allocation stage.
17. Reference was also made at the Hearing, and in written submissions, to a 3 arm mini roundabout which has previously been approved at the junction of Kirklington Road and Lower Kirklington Road. I understand from the evidence that this permission is no longer extant and so the scheme could not now be implemented. In any event, there are clear differences in form and function between a mini roundabout and a 4 arm signal controlled junction.
18. Whilst the appellant's submissions state that NCC as Highway Authority (HA) is 'unwavering in its view that the only access solution that exists for the proposed development is a traffic signal controlled option', at the Hearing, NCC confirmed the HA had not required the proposed signalised junction. It is clear from the evidence that the HA objected to the 4 arm mini roundabout originally proposed in both schemes and has no highway safety objections to the signal controlled junction. However, I have no evidence to demonstrate that an alternative junction arrangement could not be achieved in this location which would be both safe and sensitive to local character. NCC confirmed at the Hearing that the HA had never been presented with another option.
19. The appellant asserts that the proposed junction arrangement would 'unlock' the site to the south of Lower Kirklington Road which is allocated for around 45 dwellings under DPD Policy So/Ho/4 and NP Policy SS4. However, there is nothing in the evidence before me to demonstrate that delivery of that site relies on the implementation of this particular junction design.
20. There are other traffic lights in the town, outside The Minster School on Nottingham Road. However, as I observed during my site visit, these lights are located well within the established built up area and are seen in the context of significant buildings. Moreover, they serve an irregularly activated pedestrian crossing rather than controlling a substantial 4 arm traffic junction. Thus, they are not directly comparable to the scheme before me.
21. The appellant has drawn my attention to a proposed pedestrian crossing scheme around 0.7 miles from the appeal site at the Burgage crossroads. Although no details have been provided, the appellant states it is thought to include a zebra crossing with Belisha beacons. Highway authorities can undertake highway works for the maintenance or improvement of the road as permitted development. However, what is before me is a scheme of highway works to facilitate access to a new development which I must consider with regard to the development plan and other material considerations. Moreover, from the scant information submitted, the proposed pedestrian crossing would seem to be a minor intervention well within the settlement boundaries and thus would not be comparable to the highway works proposed in these appeals.

³ Newark & Sherwood District Council Statement of Representation on the Newark & Sherwood Publication Allocations & Development Management Development Plan Document Summary of Representation Process and Responses, August 2012.

22. Overall, I find that the highway interventions proposed in both appeals would create a starkly urban feature at the very edge of the settlement. Rather than successfully managing the transition into the main built up area this would result in an abrupt, conspicuous and incongruous visual intrusion in a key gateway location.

Local character

23. The Council's fourth reason for refusal in respect of Appeal A states that the proposal represents a poor design and layout. Interested parties have also raised concerns regarding the design and layout, drawing particular attention to the 'courtyard' area to the rear of High Gables which, it is stated, would appear out of character with the surrounding area.
24. The edge of the settlement adjacent to the appeal site is characterised by large, amply spaced detached houses set in generous gardens. This built form, and its verdant setting, provides an appropriate transition to open countryside.
25. By contrast, the proposed 'courtyard' element of both appeal schemes would feature small terraced and semi-detached houses, many in constrained plots, with very little spacing between them. The area would be dominated by large areas of car parking to the front and sides of houses. Retention of the existing hedge around the 'courtyard', and the provision of soft landscaping within it, would do little to soften the harsh urban appearance of the built form. Hence, this element of both appeal schemes would fail to respond positively to existing local character and identity.

Public spaces and movement

26. The public open space would be reasonably centrally located 'as the crow flies' from most of the proposed dwellings. However, in Appeal A, there would be extremely poor connectivity between the 'courtyard' and the open space. While the revised layout in Appeal B addresses this concern, the layout of both appeal schemes would result in residents of the cul-de-sac at the northern end of the site having to take a circuitous route to and from the open space.
27. Indeed, neither scheme would successfully prioritise pedestrian and cycle movements through the site, instead creating rather tortuous routes. In particular, in Appeal A, the location of the link to the Southwell Trail at the end of the northern cul-de-sac would result in most people taking a convoluted route through the development. Appeal B omits this link, so the residents of the northern cul-de-sac would have a long walk around the houses to access the trail. In both cases, the absence of a direct route between the northern cul-de-sac and Lower Kirklington Road would be likely to discourage residents from walking and cycling to local services.
28. The Council's fourth reason for refusal in respect of Appeal A refers to concern that the proposed tandem parking arrangements on some plots would be likely to result in vehicles instead being parked on the highway. On the basis of the proposed layout plan and the discussion at the Hearing, I am satisfied that any such occurrences would be fairly limited and would, in any event, be unlikely to hinder movement of people or vehicles.
29. Overall, however, the proposed public spaces would not be well connected, and the movement network would be poor.

Conclusion on First Main Issue

30. Drawing together the above points, I conclude that the appeal proposals would not achieve a well-designed place, with particular regard to the site's gateway context, local character, public spaces and movement. There would be conflict with the design and sustainable transport aims of the Newark & Sherwood Local Development Framework Amended Core Strategy (CS) Spatial Policy 7 and Core Policy 9, NP Policies DH1, DH2, SS5 and SD1, DPD Policy So/Ho/5, National Planning Policy Framework (Framework), Planning Practice Guidance Design: process and tools (PPG) and the National Design Guide (NDG).

Second Main Issue: Housing Mix

31. NP Policy HE1 requires all schemes of 11 or more dwellings on greenfield sites to deliver, among other things, 20% of 1 or 2 bedroomed bungalows. It goes on to state that 'Developments which provide bungalow and other types of accommodation for elderly and disabled people as part of the above provision will be strongly supported.' The scheme in Appeal A would not provide any bungalows. Conflict therefore arises with NP Policy HE1.
32. There is no evidence before me to demonstrate that the required proportion of bungalows cannot be delivered for viability reasons. Indeed, the revised layout in Appeal B includes 20% of bungalows.
33. The appellant proposes instead to reserve 20% of the houses for older people, with half of those provided as 'Category 2' 'Accessible and Adaptable' dwellings in accordance with Part M of the Building Regulations. However, reserving 20% of the proposed houses for occupation by older people fails to address the policy requirement for provision of accommodation for disabled people who are not older. What is more, only half of these houses would be accessible and adaptable; it is likely that the remainder would be less attractive to the older people for whom they were reserved. Accordingly, the appellant's proposals would not offer a satisfactory alternative to the provision of bungalows.
34. Whilst the appeal site is situated on the edge of the settlement, it is within a reasonable distance of shops and services. I see no reason why the proposed development would not be a suitable location for bungalows, the provision of which would help achieve a mixed and balanced community.
35. The revised layout plan in Appeal A alters the mix of affordable housing, reducing the two and three bedroomed provision and increasing the number of one bedroom units. NP Policy HE1 requires that, on greenfield sites, all schemes of 11 or more dwellings will be required to deliver a significant proportion of one or two bedroom dwellings. The explanatory text states that there is a trend towards smaller households and that the policy is worded to favour smaller dwellings. Based on the evidence before me and the discussion at the Hearing, I am satisfied that the revised affordable housing mix would meet this identified need and so be policy compliant in that regard.

Conclusion on Second Main Issue

36. For the reasons set out above I conclude that, whilst Appeal A would provide a satisfactory mix of housing sizes, in failing to provide any bungalows it would not provide a mix of housing types that appropriately reflect local housing need in conflict with NP Policy HE1.

Planning Balance and Conclusion

37. Neither appeal proposal would achieve a well-designed place, with particular regard to the site's gateway context, local character, public spaces and movement. Thus, there would be conflict with the design and sustainable transport aims of CS Spatial Policy 7 and Core Policy 9, NP Policies DH1, DH2, SS5 and SD1, DPD Policy So/Ho/5, and the Framework, PPG and NDG.
38. Moreover, the scheme in Appeal A would not provide a mix of housing types that appropriately reflect local housing need, in conflict with NP Policy HE1.
39. The appeal proposals would deliver market and affordable housing on an allocated site; these would be benefits of significant weight. Other advantages include employment during the construction phase and increased spending in the local economy following occupation, to which I afford moderate weight.
40. There are some policies in the development plan that support the appeal schemes. However, the most important policies to the determination of these appeals are those referred to above with which I have found conflict. Thus, I find that the proposals in both appeals conflict with the development plan as a whole.
41. Due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework is clear at paragraph 130 that 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.' Moreover, Framework paragraph 8 seeks to ensure that a range of homes can be provided to meet the needs of present and future generations. Therefore, even considering the Framework objective to deliver a sufficient supply of homes, including affordable housing, the conflict between the appeal proposals and the development plan policies set out above should be given substantial weight.
42. Both main parties agree the development plan is up-to-date and the local planning authority can demonstrate a five year supply of deliverable housing sites for the purposes of paragraph 11 of the Framework. The ordinary planning balance therefore applies.
43. Overall, I afford substantial weight to the harm I have identified and the conflict with the development plan when taken as a whole. Whilst the benefits referred to above are collectively of considerable importance, material considerations do not indicate the decisions should be taken otherwise than in accordance with the development plan. Therefore, I conclude that both Appeal A and Appeal B should be dismissed.

CL Humphrey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Westmoreland Smith	Advocate for the Appellant
Andrew Gore	Marrons Planning
Sara Boland	Influence Environmental

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Roger Blaney	Council Member
Clare Walker	Senior Planning Officer, Newark & Sherwood DC
Julia Lockwood	Senior Planning Officer, Newark & Sherwood DC
David Albans	Nottinghamshire County Council

INTERESTED PERSONS:

Michael Struggles	Southwell Civic Society
David Martin	Southwell Town Council

DOCUMENTS SUBMITTED AT AND AFTER THE HEARING:

1. Newark & Sherwood District Council Statement of Representation on the Newark & Sherwood Publication Allocations & Development Management Development Plan Document – Summary of Representation Process and Responses, August 2012.
2. Newark & Sherwood District Council Delegated Officer Report and plan ref. WTD/SA/06/SK006 Rev. A in respect of application no. 13/00823/FUL - Formation of new vehicular access and mini roundabout with associated highway works, Land at Kirklington Road, Southwell.
3. Representative viewpoints – Nottingham Road and Upton Road, Southwell - Drawing Numbers N0490 (08) 011 & N0490 (08) 012.
4. Appeal A – Comparison of proposed housing mix by size (Layout Rev. F & H).
5. Plan of appeal site and site allocation boundaries.
6. Draft planning condition regarding accessible and adaptable dwellings.
7. Appellant's Case Summary.
8. Appellant's Application for Costs.
9. Council's reply to the costs application, received by email dated 12 March 2020.
10. Completed planning obligations under s106 of the Town and Country Planning Act 1990 (as amended), received by email dated 12 March 2020.
11. Appellant's final reply on the costs application, dated 13 March 2020.
12. Correspondence from appellant regarding proposed pedestrian crossing on Lower Kirklington Road, received by email dated 24 March 2020.
13. Response from Council regarding item 12 above, received by email dated 15 May 2020.