



Appeal Decision

Site visit made on 7 May 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 JUNE 2024

Appeal Ref: APP/B3030/W/24/3340126

Land adjacent No 3 Chestnut Copse, Newark NG24 1RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stuart Willis of Andenor Limited against the decision of Newark & Sherwood District Council.
 - The application Ref is 23/02028/OUT.
 - The development proposed is the erection of 1no bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the planning application was submitted to the Council, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
3. Outline planning permission is sought with all matters reserved for subsequent approval. Drawings have been submitted that include details of access, layout, scale, appearance and landscaping, matters which are reserved for subsequent approval. I have therefore treated these drawings as indicative and determined the appeal on this basis.
4. The appellant submitted drawings showing visibility splays and swept path analysis to defend one of the Council's reasons for refusal. The Council and interested parties have had the opportunity to comment upon the information and therefore were not prejudiced.

Main Issues

5. The main issues are the effect of the proposal on:
 - a) the character and appearance of the surrounding area; and
 - b) highway safety.

Reasons

Character and Appearance

6. The appeal site comprises what was formerly the rearmost section of 2 London Road's garden. Adjacent to the appeal site's southeastern boundary, within the rear garden of 4 London Road, there are several trees whose canopies spread partially across the appeal site. These trees are visible from Chestnut Copse and the rear gardens of surrounding dwellings, while glimpses of these trees

can also be seen between the houses along Shakespeare Street. Consequently, they provide a degree of amenity value and add to the verdant character and appearance of the surrounding area.

7. It is clear from my own observations and the evidence before me that the existing trees, due to their height and crown spread, would overshadow a proportion of the appeal site, and could reduce the amount of light experienced by the proposed dwelling's future occupiers. However, the indicative drawing suggests that a dwelling could be designed with rooms that would be less frequently used positioned closest to the trees, and the garden of the proposed dwelling is likely to have sunlight for approximately half the day. Consequently, I do not find that the proposal would directly lead to intense pressure to drastically cut back the existing trees to provide light to the new dwelling.
8. Even if works were undertaken to the existing trees, this would be limited to the cutting back of branches overhanging the appeal site as the trees are growing on land outside the appellant's ownership. Such works would be limited and would not overtly harm the verdant character and appearance of the surrounding area.
9. In reference to the first main issue, the proposal would not harm the character and appearance of the surrounding area. It would therefore comply with Policy 12 of the Amended Core Strategy¹, adopted 2019 (CS) and Policies DM5 and DM7 of the Newark & Sherwood Local Development Framework, Allocations & Development Management Development Plan Document, adopted 2013 (DPD) which, amongst other things, requires natural features of importance within or adjacent to development sites, wherever possible, to be protected and enhanced.

Highway Safety

10. While the appellant has submitted swept path analysis drawings with their appeal to address part of the Council's reason for refusal, the layout of the proposal is reserved for subsequent approval, and I am satisfied that the size of the plot could accommodate both a dwelling and the required vehicle turning facilities. Similarly, the width of Chestnut Copse appeared to be sufficient for a fire engine to negotiate and should it require a turning facility within the appeal site, this could be dealt with as part of the reserved matter of access.
11. The evidence before me suggests that bin collections currently take place from Chestnut Copse and therefore a suitable bin collection point could be conditioned to be included within the appeal site. Furthermore, a construction method statement could be conditioned to ensure contractors' vehicles and the delivery of materials is undertaken in a safe manner.
12. Although the proposal is in outline with all matters reserved, including access, I must be satisfied that a suitable access is capable of being achieved to serve the proposed development at the outline stage. The indicative drawings show that the proposed dwelling would utilise Chestnut Copse that serves 1, 2 and 3 Chestnut Copse and 102 London Road. Chestnut Copse is a long, straight, private no-through road that varies in width but generally cannot accommodate two vehicles side-by-side and has no dedicated passing places. It exits onto

¹ Amended Core Strategy, Plan Review: Review of the Newark & Sherwood Local Development Framework Core Strategy & Allocations, adopted March 2019

London Road (the B6326) between 2 and 102 London Road, which is a busy thoroughfare with a 30mph speed limit.

13. A large mature tree with a sizable trunk is positioned on the southeastern corner of Chestnut Copse and London Road, on third party land. A drawing was submitted with the appeal to demonstrate visibility splays. According to the Highway Authority's traffic speed data for a section of London Road in the vicinity of the junction, the vehicle visibility splay distances depicted on the drawing are inadequate. The appellant has not undertaken their own speed surveys and therefore, I have nothing before me to come to a different view.
14. I am not persuaded that the tree on the corner of the junction has been accurately depicted on the submitted drawing, particularly in respect of the diameter of its trunk. Furthermore, the drawing does not include the vertical visibility splay from driver eye height or pedestrian visibility splays. Consequently, both vehicular and pedestrian visibility from Chestnut Copse onto London Road would be restricted by the tree in a southeasterly direction. Also, the limited width of Chestnut Copse could lead to conflict between vehicles entering and leaving the road, forcing vehicles to reverse onto London Road or along Chestnut Copse.
15. I acknowledge that the access is existing, however, the proposal would lead to an intensification in its use. Limited information has been provided regarding the planning history of the housing development, but its approval by the Council in the mid-1990s pre-dates the current development plan and therefore policies in respect of highway safety/design are likely to have changed. Furthermore, in the intervening period, traffic volumes along London Road would have increased and the tree at the junction will have likely grown. While there have been no previously recorded personal injury accidents at the junction in the last 10 years, the absence of incidents does not indicate that an access is safe in highway safety terms, or that the existing access would operate safely with an intensification in use.
16. The appellant asserts that low traffic speeds and low vehicle volumes along Chestnut Copse should be taken into consideration. While the width of the road may aid a reduction in vehicle speeds, no traffic surveys have been provided to substantiate these assertions. The appellant has directed me to several examples of approved planning applications which they claim fail to apply the design requirements of the Nottinghamshire Highway Design Guide. However, limited information has been provided in respect of these developments and therefore I am unable to determine whether they are directly comparable to the appeal proposal. In any event I must determine the proposal on its own merits.
17. The appellant asserts that permitted development rights could be exercised to create garaging/a parking area accessed from Chestnut Copse that could lead to an intensification of the existing access/junction onto London Road. However, no Certificate of Lawful Proposed Use or Development has been provided and as it is unclear what it would serve, particularly as 2 London Road has an existing parking/turning area accessed from London Road, I am not persuaded that there would be a real prospect of it being implemented. Furthermore, what can be undertaken as permitted development falls outside the scope of the development plan and therefore is not directly comparable to the appeal proposal. Consequently, I attach limited weight to this fallback.

18. In reference to the second main issue, the proposal would have a detrimental effect on highway safety. It would therefore conflict with Policy SP7 of the CS and Policy DM5 of the DPD which, amongst other things, seek to ensure that provision should be made for safe access to new development and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected.

Conclusion

19. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR