



Appeal Decision

Site visit made on 2 August 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/B3030/W/24/3341165

Land off Main Road, Boughton, New Ollerton, Newark

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Anne Staley, Anne Staley Design Ltd against the decision of Newark & Sherwood District Council.
 - The application Ref is 23/02101/FUL.
 - The development is erection of 4No. semi detached dwellings with associated parking and landscaping works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (2023) (the Framework). The consultation and draft Framework do not constitute Government policy or guidance. However, they are capable of being material considerations in appeals. Notwithstanding this, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of the consultation.
3. An amended plan: 23-2496(PL)003 Rev P04 and traffic survey was submitted with the appeal confirming the speed of traffic along Main Road and visibility splays. Parties have been provided with this information and had the opportunity to comment. The submitted information does not involve a substantial difference or a fundamental change to the proposed development. On this basis there would be no prejudice or injustice by me proceeding with the appeal in light of submitted documents. I have considered the appeal on the basis of the amended plan and details provided.

Application for costs

4. An application for costs was made by Mrs Anne Staley, Anne Staley Design Ltd against the decision of Newark & Sherwood District Council. This application is the subject of a separate decision.

Main Issues

5. The main issues in this appeal are the effect of the proposed development on (i) the character and appearance of the area and (ii) the highway network.

Reasons

Character & Appearance

6. The appeal site lies within a predominantly residential area which comprises a variety of property design and types within the area. The front of the site is bounded by hedgerow adjacent Main Road.
7. The proposed development comprises semi-detached dwellings which are not dissimilar in size and design to that of the adjacent properties on Kirk Drive which are within the blue line boundary. Other properties on Kirk Drive are also comparable in terms of size. There is a level difference in the area, with the appeal site increasing in levels from the front of the site, adjacent Main Road, towards the rear of the site.
8. Properties opposite the site along Main Road are predominantly bungalows. Due to the level difference between the bungalows on Main Road and the appeal site the proposed development would be prominent in the streetscene. Particularly in light of the proposed limited set back of the development from the road.
9. The proposed development would result in the loss of a hedgerow and a tree from the frontage, adjacent Main Road. The Council confirm in their Planning Officer's Report that there is an extant planning permission on the site which allows for its residential development and the removal of both of these features. The hedgerow softens the appearance of the residential development on Kirk Drive and whilst the loss of these features is unfortunate as these could be removed as part of the previous approval I give limited weight to their loss.
10. The proposed development comprises double the number of properties on the site compared to that previously approved¹, both parties agree this is extant and I have no evidence to disagree. The previous approval was spacious in terms of development to plot ratio.
11. Private amenity space proposed for each property is modest, in particular, plot 4 would have an irregular shaped rear garden area and an area to the side of the property. The appellant has confirmed that the hedgerow bounding the propose rear garden is within the ownership of an adjacent property, I have no reason to doubt this and therefore its removal is not within the control of the appellant. The proposed garden area would be useable and adequate for the size of the proposed dwelling, I have not been provided with substantive evidence to persuade me otherwise.
12. Given the variation of properties in the area, particularly in light of the adjacent properties on Kirk Drive the proposed development along with the access would not be out of keeping with the surrounding area.
13. I conclude that the proposed development would not harm the character and appearance of the area.
14. There is no conflict with Core Policy 9 of the Sherwood District Council, Amended Core Strategy (2019) (the Core Strategy) and Policy DM5 of the Newark and Sherwood Local Development Framework, Allocations and Development Management Development Plan Document (the DPD) which seeks

¹ Planning Application Ref: 06/00635/RMA

amongst other things to ensure developments are sensitively designed and in-keeping with the surrounding area.

15. There is no conflict with the Framework which seeks amongst other things to ensure developments are of good design appropriate and sympathetic to their surroundings.

Highway Network

16. An amended plan: 23-2496(PL)003 Rev P04 and traffic survey was submitted with the appeal confirming the average speed of traffic along Main Road which according to the Highway Authority demonstrates that a visibility splay of 2.4m x 65m should be adopted to facilitate the proposed development. I do not disagree.
17. The Highway Authority confirm they are content with the on-site layout of the appeal scheme (within the site and beyond the highway boundary) as shown on the amended plan. Notwithstanding this the Highway Authority raise concern with regard to the revised visibility splay shown on the amended plan.
18. My attention has drawn by the Highway Authority to on-street parking occurring outside of No. 94 Main Road, and that the previous approval for the property has not been implemented in accordance with the approved plans. Whilst I understand No. 94 is within the ownership of the appellant, this breach of planning is a matter outside the scope of this appeal and is something which the Council could address through their powers as Local Planning Authority.
19. Whilst only a snapshot in time during my site visit I did not observe on-street parking outside of No. 94. Nevertheless, from the evidence before me it is clear that parking does occur outside of No. 94 which would impede visibility. Parking restrictions could be imposed mitigating this encroachment; however I cannot be sure that this would alleviate the issue given the potential restricted on-site parking arrangements associated with No 94 due to potential non-compliance with the previous approval.
20. The proposed visibility splay would encroach into the nearby bus layby, whilst this land is controlled by the Highway Authority nonetheless there would be an impairment of visibility by vehicles using the layby. The appellant has confirmed that a revised visibility splay could be provided, however I have not been provided with substantive evidence to demonstrate this.
21. A pedestrian visibility splay of 2m x 2m has not been shown on the amended plan to the southern side of the proposed access. Whilst a lower visibility splay could be acceptable, I am conscious of the compromised visibility due to the on-street parking associated with No. 94. I have not been provided with substantive evidence to confirm why a reduced visibility splay would be appropriate in this instance.
22. Concern has been raised that a revised 2.4m x 65m southern visibility splay would encroach into the bell mouth of Kirk Drive at its junction with Main Road, leading to possible obstruction of that splay by vehicles waiting to join Main Road from Kirk Drive.
23. The appellant confirms that they would be more than willing to consider a marked-up plan from the Local Highways Authority to illustrate their concern, but remains of the opinion that the visibility required can be more than

provided for. This matter should be fully considered during the application process and whilst I have allowed consideration of the amended plan and accompanying information an appeal is not the mechanism for ongoing negotiations.

24. In the absence of a clear understanding of the works required to create safe visibility I conclude that the appellant has not demonstrated that the proposed development would not harm the highway network.
25. There is conflict with Spatial Policy 7 of the Core Strategy and Policy DM5 of the DPD which seeks amongst other things for developments to not impact the transport network and to provide safe and inclusive access.
26. There is conflict with the Framework which seeks to ensure developments have an acceptable impact on highway safety.

Conclusion

27. Whilst I have found that the proposed development would not harm the character and appearance of the area this does not outweigh the harm I have identified in relation to the highway network.
28. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR