
Appeal Decision

Site visit made on 6 September 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

Appeal Ref: APP/B3030/W/24/3338948

Land to the rear of 112 High Street, Collingham, Newark, NG23 7NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Jonathan Bailey against Newark and Sherwood District Council.
 - The application Ref is 23/02150/FUL.
 - The development proposed is erection of 1no. dwelling and detached garage following demolition of storage building.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 1no. dwelling and detached garage following demolition of storage building at Land to the rear of 112 High Street, Collingham, Newark, NG23 7NG, in accordance with the terms of the application, Ref 23/02150/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Jonathan Bailey against Newark and Sherwood District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Amended plans were submitted during the course of the application to address design concerns raised by the Council. Although these amended plans were submitted a month before the appeal against non-determination was lodged, and were made available for viewing on the public access system, the Council has not undertaken any formal re-consultation on these amendments. Furthermore, despite the amended plans being submitted with the appeal against non-determination, the Council's case is based upon the plans that were originally submitted with the application, which was not determined. It has however taken into account the additional information submitted relating to trees on neighbouring land, which was submitted after the amended plans.
4. The amendments made to the plans relate primarily to the roof design, with the siting, scale and internal floor layout of the proposed dwelling, including the position of windows and doors, remaining unchanged. I am therefore satisfied that the minor amendments would not change the proposal to such an extent that any other party would be prejudiced by not having an

opportunity to comment upon them. I have therefore determined this appeal based upon the amended drawings, which the Council had the opportunity to comment upon.

Main Issues

5. Having regard to the Council's appeal submissions and suggested reasons for refusal, the main issues in this appeal are the effect of the proposed development on:
 - the designated Main Open Area;
 - the character and appearance of the area and heritage assets; and
 - trees on neighbouring land.

Reasons

Main Open Area

6. Although the proposed new dwelling would be outside of the 'Main Open Area' as defined by the Newark and Sherwood Allocations and Development Management DPD (the DPD), part of its curtilage and the proposed double garage would encroach into this. However, I observed on my visit that this area, which forms part of the curtilage to the existing building, already comprises a hard surfaced access and the concrete base of a former building. As such it is distinctly different in character to the larger open fields and paddocks that lie beyond the curtilage of the existing buildings. I also noted that other rear gardens and outbuildings appear to extend into the Main Open Area, which cuts across the middle of various plots and parcels of land and does not follow any logically defined defensible boundary. Indeed, in relation to the appeal site, the designated area is limited to a small, narrow strip of land between the rear boundary of 2 Lime Tree Close and a former building, not a large open area.
7. The proposed garage would be small in scale and would be viewed in context with built development to the north, south and west of it. Accordingly, it would not result in harm to the form and structure of the Main Open Area, which comprises predominantly open land, with the exception of some small sheds, field shelters and stable type buildings. Garden land is not built development and I am not persuaded that this would create any more clutter than that which currently exists around the storage building and containers.
8. I therefore conclude that the proposal would not conflict with Policy Co/MOA of the DPD, which states that planning permission will not normally be granted for built development on land allocated as Main Open Areas.

Character and appearance and heritage

9. My attention has been drawn to three grade II listed buildings on High Street. The significance of these buildings is their historic and architectural interest. The appeal site, which is located to the rear of buildings on the opposite side of High Street, does not contribute to the setting or significance of any of these listed buildings, which are not viewed in context with it. I am satisfied that given the scale of the development and its distance from the listed buildings, it would not result in harm to their significance or their setting.

10. The site is located within the Collingham Conservation Area (CA). Whilst I have not been provided with a copy of the Conservation Area Appraisal referred to, I am advised that the CA is typified by its rural and vernacular character with buildings being primarily arranged in a tightly knit formation either immediately alongside the highway or set back within a more secluded garden, depending on the social status of the building. In many instances, there are quite often ancillary buildings, such as outbuildings or barns, set behind the primary building line. This description reflects what I observed during my visit. There is a statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
11. It is undisputed that the existing building on the site does not make a positive contribution to the character or appearance of the CA and that its demolition is acceptable.
12. It is suggested that the new dwelling due to its siting behind the principal building line would erode the historic plan form and layout of the village. However, the dwelling would replace an existing building and group of containers in a similar location. Moreover, it would reflect the historic character of the CA, which as described by the Council includes buildings set back behind the building line. The historic maps provided by the Council also indicate that there have been buildings to the rear of properties fronting the High Street, including on the appeal site, for many years and that this is in fact part of the historic pattern of development in this area.
13. The original plans, although reflecting the appearance of the existing building on the site, proposed a building that was disproportionate in height to its width and the industrial design of which would not preserve or enhance the character or appearance of the CA. The amended plans that I am considering propose a building of traditional design, incorporating low eaves and a steep pitched roof with chimney stacks at either end. Whilst dormer windows are not a strong characteristic of this area, others are present along High Street and the three small dormer windows proposed would not harmfully detract from the mix of dwellings in the area.
14. Although the proposed dwelling would be higher than the building it would replace, it would be similar in footprint and location to the existing building, containers and ancillary outdoor storage. The dwelling would be visible in views along its access from High Street and its roof would be visible in glimpsed views across gardens and gaps in the frontage development. The dwelling and garage would also be visible from the public footpath that runs across the open space to the rear of the site.
15. However, notwithstanding the fact that there is open space to the rear of the site, it is nevertheless in the centre of a built-up village, and the built development would not encroach any further into the open space than the curtilage of the existing buildings and that of others nearby. As such it would not erode or domesticate the rural setting of the village. The proposal would be a vast improvement upon the existing building, containers and associated outside storage on the site.
16. I therefore conclude that the proposal would preserve and enhance the character and appearance of the CA and would not affect the setting or significance of any nearby listed buildings. Consequently, it would accord

with Core Policies 9 and 14 of the Newark and Sherwood Core Strategy (the CS), Policies DM5 and DM9 of the DPD, and the National Planning Policy Framework (the Framework). These require that new development is of high-quality sustainable design and conserves and enhances the character, appearance and setting of heritage assets.

Trees

17. There are no trees on the appeal site itself although there are trees in the rear garden of neighbouring No.110 High Street. I have not been advised that these trees are subject to a Tree Preservation Order, but they are offered some protection due to being in the CA. Furthermore, regard must be had to the protection and retention of any trees outside of the appellant's ownership and control.
18. A tree constraints survey has been submitted. Although this does not include the surveyed position of the trees in relation to the proposed development, it confirms that the root protection area of trees T002 and T003 do not encroach into the site.
19. The root protection area of the apple tree T001 does encroach slightly into the appeal site and would be close to the rear of the proposed dwelling. However, as it is proposed to site the new dwelling further away from the boundary than the existing building and containers with its single storey rear projection inset further still, there would be minimal risk of conflict as the neighbouring trees continue to mature and grow.
20. I observed during my visit that the trees on the neighbouring land are some distance from the boundary and are separated from it by a range of outbuildings and sheds. The proposed dwelling would be separated from the boundary by an access path and the only openings in the proposed side elevation facing the trees would be a utility room door and landing window. Accordingly, any overshadowing or debris from the adjacent tree canopies would not affect any habitable rooms or usable garden space.
21. Whilst I note the long-term recommendation for the removal of tree T002 due to its existing poor condition, that would be a matter for the owner of the tree and not a requirement of the proposed development.
22. Given the size, nature, condition and maturity of the adjacent trees, together with their distance from the boundary and proposed new building, and the presence of intervening buildings and structures, I conclude that subject to suitable mitigation measures being secured by condition to protect these trees during construction, the proposal would not be detrimental to the health or future growth of nearby trees. Consequently, the proposal would accord with Core Policy 12 of the CS and Policy DM5 of the DPD, which seek to protect natural features of importance within or adjacent to development sites.

Other Matters

23. I note the comments of the local highway authority and a third party regarding highway safety. The existing building and land to the rear of it is used for the storage of building materials and equipment. I have not been provided with any evidence of how frequently this is accessed or by what type of vehicles. However, it is apparent to me that the existing use of the site could potentially generate similar or greater vehicular movements to

that of a single dwelling. I therefore agree with the planning and highway officers that the development would not have an unacceptable impact on highway safety.

Conditions

24. The Council has suggested a list of conditions which I have considered against the relevant tests. In addition to the standard time limit I have conditioned the approved drawing number to provide certainty as to what has been approved. It is necessary to condition the approval of external materials, detailed finishes and features, and hard and soft landscape works to ensure a satisfactory end appearance. It is necessary to condition measures to protect trees on the neighbouring land, as these are outside of the appellant's ownership and control. As there is uncertainty regarding the historic use of the site a condition is necessary to ensure any contamination is appropriately dealt with to protect health and the environment.
25. Conditions to ensure that the parking and turning areas are complete and available for use and that appropriate waste storage and collection details have been agreed and provided prior to the occupation of the development are necessary in the interests of highway safety and amenity. However, as the access is already a bound surface and as the provision of electric vehicle charging points is covered by building regulations, it is not necessary to condition these matters. I also consider it unnecessary to require details of cycle parking given that there would be ample space to provide this in the approved garage or to the rear of the dwelling without causing any harm.
26. Permitted development rights are limited in conservation areas, and I have not been provided with any justification as to why it is necessary to remove these altogether. I do however agree that it is reasonable to restrict new openings in the southern elevation of the approved dwelling in order to protect the privacy of neighbours.

Conclusion

27. For the reasons given above, and having regard to all matters raised, the appeal is allowed.

R Bartlett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing no. 407-COL-1507-A1-02 Rev B.
- 3) No development above damp proof course shall take place until manufacturers details of the external facing materials have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details and retained as such for the lifetime of the development.
 - External windows and doors including roof windows and their immediate surroundings, glazing, glazing bars, heads and cills.
 - Verges and eaves.
 - Rainwater goods.
 - Chimneys and flues.
 - Soil and vent pipes.
- 5) Prior to the first occupation of the development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: full details of every tree, shrub, hedge to be planted (including its proposed location, species, and size upon planting); proposed finished ground levels; means of enclosure; and hard surfacing materials. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.
- 6) The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees, hedges or shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping scheme shall be completed prior to first occupation or use.
- 7) No works or development shall take place until an arboricultural method statement and scheme for protecting adjacent trees/hedgerows throughout the demolition and construction phase of the development has been agreed in writing with the local planning authority. This scheme shall include:
 - a. A plan showing details and positions of the ground protection areas.
 - b. Details and position of protection barriers.
 - c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
 - d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).

- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. Details of any scaffolding erection and associated ground protection within the root protection areas.

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. The approved protection measures shall be retained throughout the development of the site.

- 8) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 9) No part of the development hereby permitted shall be brought into use until the driveway and parking area is provided in accordance with the approved plan (drawing number 407-COL-1507-A1-02 Rev B). The parking area shall not be used for any purpose other than parking/turning/loading and unloading of vehicles.
- 10) No part of the development hereby permitted shall be occupied until provision has been made within the site for bin storage facilities in accordance with details to be submitted to and approved in writing by the local planning authority. Such facilities shall be located as close as possible to High Street and shall be maintained for the life of the development.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking, re-enacting or modifying that Order), no windows including dormer windows (other than those expressly authorised by this permission) shall be constructed on the south elevation of the development hereby permitted.

END OF SCHEDULE