



Appeal Decision

Site visit made on 18 November 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2025

Appeal Ref: APP/W3005/W/24/3340487

69 Nottingham Road, Hucknall, Nottinghamshire NG15 7PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Trev Murtough against the decision of Ashfield District Council.
 - The application Ref is V/2023/0644.
 - The application sought planning permission for approval of reserved matters following outline approval V/2020/0290 for two detached bungalows, one detached house and associated works, without complying with a condition attached to planning permission Ref V/2022/0440, dated 22 August 2022.
 - The condition in dispute is No 2 which states that: *"This permission shall be read in accordance with the following plans: Site Location Plan, Received 31/05/2022. Proposal Layout Plan, 21:47:10'A'. Received 29/07/2022. Proposed Elevations and Floor Plans, Drawing No's 221:47:11, 221:47:13 and 221:47:16. All Received 31/05/2022. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority."*
 - The reason given for the condition is: *"To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application"*.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the grant of outline planning permission¹ for two detached bungalows, one detached house and associated works, reserved matters approval² was subsequently granted in 2022, subject, amongst others, to a condition requiring adherence with the approved plans ('Condition 2').
3. The appeal application sought to substitute amended plans with an alternative layout and design.
4. The revised National Planning Policy Framework ('the Framework') was published on 12 December 2024. I have considered the changes and as they are not material to the proposal, further comments were not sought from the parties. I have, however, determined the appeal having regard to the revised Framework, and where I have referenced paragraph numbers, they relate to the revised version.

¹ V/2020/0290

² V/2022/0440

Main Issues

5. The main issues are the effect of varying the condition upon:

- the character and appearance of the area;
- the significance of the setting of 71-73 Nottingham Road, a Grade II listed building ('the LB') and other non-designated heritage assets;
- highway safety, and;
- the living conditions of the occupiers of nearby properties within particular regard to outlook, light and privacy.

Reasons

Character and appearance

6. The appeal site comprises an area of land between existing dwellings in an urban location. Surrounding development is predominantly a mix of residential properties of varying scales, design and age, although much is relatively modern. However, there are a number of older buildings interspersed, particularly along Nottingham Road.
7. The house proposed on Plot 1 would differ from that originally approved in that it would provide an additional bedroom and a full width, two-storey, flat-roofed rear projection, and the Council has raised specific concern in relation to the rear projection.
8. Flat roof projections to houses with pitched roofs are often later additions and can serve as a means to extend a property where the use of a pitched roof would make it difficult to do so. However, the proposal relates to the erection of an entirely new dwelling and no evidence has been put before me to demonstrate that as a new-build property, that the dwelling proposed on Plot 1 would be subject to such design constraints.
9. I note that the Ashfield Residential Extensions Design Guide Supplementary Planning Document ('the SPD') is clear in stating that in general, the Council does not encourage flat roof extensions. The rear projections at 67 and 69 Nottingham Road have shallow catslide style roof designs, as opposed to the flat roof proposed in the appeal scheme and are therefore not comparable.
10. In this context, the proposed design of the dwelling for Plot 1 would not constitute a high quality of design. Although the rear projection would not be prominent when viewed from Nottingham Road, it would be visible within the development itself, including from the access road, as well as from surrounding residential properties.
11. The fact that the General Permitted Development Order 2015 (as amended) ('the GPDO') makes provision for rear extensions does not indicate that all such extensions should be considered acceptable where they fall within the scope of planning control.
12. The dwellings proposed on Plots 2 and 3 would comprise dormer bungalows and would be materially larger than the bungalows previously approved on these plots. However, their design would be acceptable, and although no

materials are indicating, these could be adequately secured by means of planning condition.

13. Nevertheless, I conclude that the proposal would be harmful to the character and appearance of the area. It would conflict with Policies ST1 and HG5 of the Ashfield Local Plan Review 2002 ('ALPR') which, amongst other factors, state that development be permitted where it will not affect the character or quality of the environment, and where residential development is acceptable in terms of appearance, scale and siting.
14. I am also mindful that paragraph 140 of the Framework states that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme.

Heritage assets

15. As the appeal site is located adjacent to the LB, I am mindful of my statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
16. Paragraph 212 of the Framework states that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm should require clear and convincing justification in line with paragraph 213 of the Framework.
17. Both of the main parties have provided evidence in relation to the effect of the proposal upon heritage assets, as both are entitled to do. I have taken account of the evidence of both parties, including the appellant's heritage statement and the comments of the Council's Conservation Officer in considering this main issue.
18. 71-73 Nottingham Road is a house, formerly a pair of cottages adjoining the appeal site to the south, of course and squared stone with a pantile roof. The building has strong gothic influences, and it is this architectural approach and age of the property from which it derives significance.
19. Although situated within an area with more modern urban residential properties, there are a number of locally listed buildings in the vicinity which are non-designated heritage assets ('NDHAs'), including Knitter's Cottage, Framesmith's Workshop, and nos 51, 67 and 69 Nottingham Road. Together with the LB, these buildings have group significance as evidence of the evolution of the built-up area over time.
20. The LB can be readily appreciated from Nottingham Road, and the currently open character of the appeal site aids this. In doing so the individuality of the design of the LB within the streetscene is highlighted, and its relationship with NDHAs appreciated. In providing clear views of the LB, the appeal site contributes positively to its setting.
21. The appeal proposal would provide a site access road to the north of Plot 1, between the proposed house and 67 and 69 Nottingham Road. This would mean that the house on Plot 1 would be located close to the boundary with the LB. This would differ from the arrangement previously approved, in that the access road in that case, would have been between Plot 1 and the LB.

22. As a result of the amended layout, the house on Plot 1 would reduce the openness of the current setting of the LB, and in doing so harm the ability to appreciate the significance of the LB. I accept that there would still have been some reduction in this openness following the implementation of the approved scheme, however with the Plot 1 dwelling being closer to the LB in the scheme now before me, the effect would be greater. As a result, the appeal proposal would lead to harm to the setting of the LB. This harm would be towards the lower end of less than substantial harm.
23. The proposed amendments would also affect NDHAs by eroding their group value as result of the harm that would result to the setting of the LB. However, it is likely that the approved scheme would also have resulted in a similar level of harm. Accordingly, I consider that the effect of varying the condition upon NDHAs would be neutral.
24. Paragraph 215 of the Framework states that where a development proposal will lead to less than substantial harm to a designated heritage asset, that this should be weighed against the public benefits of the proposal.
25. In this case, the proposal would lead to an addition of three additional dwellings to the supply of housing. It would also result in economic benefits during construction and thereafter on occupation. However, outline planning permission already exists for these dwellings, and an alternative reserved matters scheme has previously been approved, and in effect, the proposal would not result in a net gain of dwellings in terms of the Council's current level of housing land supply.
26. The proposal would have a negative effect on the significance of a designated heritage asset and the Framework states that great weight should be given to the conservation of these assets. The public benefits identified would not outweigh this harm.
27. Given the above, the proposal would conflict with ALPR Policies ST1 and HG5, which together state that development be permitted where it will not affect the character or quality of the environment, and where residential development is acceptable in terms of appearance, scale and siting.

Highway safety

28. The provided 1:500 scale plans include little detail in relation to highway specifications. The width of the access road, both at the point at which it meets Nottingham Road, and at other points along its length is not indicated. It is also unclear whether it would be wide enough for vehicles to pass. Moreover, it is unclear whether occupiers of Plots 2 and 3 would be provided with sufficient space to park a vehicle such that it wouldn't obstruct the access road, should any vehicle not be stored in a garage.
29. The appellant has stated that the access would be 5007 millimetres wide and would therefore meet the relevant design guide standards of 4.8 metres, and that the proposed access would be taken at the same point as previously approved. The fact that the access point has previously been considered by the Council and granted reserved matters approval weighs in the favour of the proposal. The improved alignment of the access to meet Nottingham Road at a ninety-degree angle is an improvement over the previously approved scheme.

30. However, these points do not outweigh the fact that the provided plans fail to provide sufficient detail to demonstrate that the proposal would not have an unacceptable effect upon highway safety in other respects. Nor would a substandard width access being previously approved justify the lack of detail provided in relation to the proposal now before me.
31. I therefore conclude that the effect of varying the condition would harm highway safety. It would be contrary to Policies ST1 and HG5, which together and among other factors state that development will be permitted where it will not adversely affect highway safety, and that safe and convenient access is provided for all users.

Living conditions

32. The proposed dwellings would be larger than previously approved and relocated. However, the evidence provided by the appellant indicates that the effect of these changes in relation to outlook and light would not be unacceptably harmful.
33. Furthermore, given the character of the area, existing relationships between dwellings, and the previously approved scheme, I consider that the appeal scheme would be unlikely to give rise to unacceptable levels of harm to the living conditions of occupiers of nearby properties in relation to privacy.
34. I acknowledge that the provided plans include limited details in relation to plot demarcation, boundary treatments and landscaping, however it has not been shown that such details could not be adequately secured by means of an appropriately worded planning condition.
35. I therefore conclude that the proposal would not lead to harm to the living conditions of occupiers of nearby properties with particular regard to outlook, light and privacy. The proposal would therefore, insofar as they relate to this main issue, accord with ALPR Policies ST1 and HG5, which amongst other factors state that residential development will be permitted where the amenity of neighbouring properties is protected, that potential overlooking is minimised, and a reasonable degree of privacy and security provided.

Other Matters

36. The appellant has raised a number of concerns in relation to the conduct of the Council and administration of the application. While I note the frustrations, they are matters which fall outside of the scope of this appeal, and I have considered the proposal on its planning merits.
37. It is stated that a full-width two-storey rear extension could be erected at the house at Plot 1 as previously approved, through the exercising of permitted development rights following the occupation of the property. However, there is no substantive evidence before me in the form of Certificate of Lawfulness to demonstrate that such an extension would meet all of the requirements of the relevant part of the GPDO. I therefore afford little weight to this in favour of the proposal.
38. The existing reserved matters approval is a scheme which forms a fallback position. However, as I have found that the appeal scheme would not be preferable, the existence of the fallback position does not weigh in favour of the appeal.

Conclusion

39. I have found that the proposal would conflict with the development plan as a whole, and there are no material considerations, including the Framework that indicate that a decision should be taken other than in accordance with it.

40. For the reasons given above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR