



Appeal Decisions

Site visit made on 9 February 2021

by **Paul Cooper MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal A Ref: APP/B3030/W/20/3262263

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 19/02064/FUL, dated 7 November 2019, was refused by notice dated 30 April 2020.
 - The development proposed is erection of 5no. new dwellings.
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Appeal B Ref: APP/B3030/W/20/3263598

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01418/FUL, dated 29 July 2020, was refused by notice dated 9 October 2020.
 - The development proposed is erection of 4no. 2-storey dwellings.
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Appeal C Ref: APP/B3030/W/20/3263609

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01421/FUL, dated 29 July 2020, was refused by notice dated 9 October 2020.
 - The development proposed is erection of 3no. dwellings: 2x2-storey and 1 x single storey.
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Appeal D Ref: APP/B3030/W/20/3263611

Land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW

- 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 D Shaw (Ablehomes Ltd) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/01433/FUL, dated 8 July 2020, was refused by notice dated 9 October 2020.
 - The development proposed is erection of 5no. single storey dwellings.
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Decisions

1. Appeals A, B and D are dismissed. Appeal C is allowed, and planning permission is granted for erection of 3no. dwellings: 2x2 storey and 1x single storey at land rear of 49 The Ropewalk, Southwell, Nottinghamshire NG25 0EW in accordance with the terms of the application Ref 20/01421/FUL dated 29 July 2020, subject to the conditions on the attached schedule.

Procedural Matter

2. The appeals are all in the name of Mr D Shaw of Ablehomes Ltd and all relate to the same site. There are slight variations in the format of the name and company name of the appellant and how the site is addressed across the appeals. I have taken one consistent name and site address on the banner heading. I am satisfied that the appellant name is correct, and the site can be clearly identified. I am therefore satisfied that no party has been prejudiced by this approach.

Background

3. The site has a considerable planning history. The site was part of a larger site for seven dwellings that was granted consent in 1971. Five of the properties were built, but two properties were not built on the current appeal site. Revised dwelling designs were given permission via a non-material amendment (NMA) in 2016.
4. Separate proposals were submitted for two dwellings in 2014 with new designs and revised siting but were refused permission and dismissed at appeal.
5. In 2019 (19/02064/FUL) permission was sought for five dwellings on site, and refused permission, which is the subject of one of the appeals (APP/B3030/W/20/3262263). Following this refusal, four alternative schemes were put forward, for two, three, four and five dwellings respectively. The application for two dwellings has subsequently been granted consent, but the other three applications were refused (APP/B3030/W/20/3263598, 3263609 and 3263611) and are subject of the remaining appeals in front of me.
6. So, to summarise, in front of me are the following four appeals:
 - Appeal A - 3262263 – Erection of five dwellings, one of which is single storey
 - Appeal B – 3263598 – Erection of four dwellings
 - Appeal C – 3263609 – Erection of three dwellings, one of which is single storey
 - Appeal D - 3263611 – Erection of five single storey dwellings

Main Issues

7. The reason for refusal was very similar in wording across all four appeals. Therefore, the main issue in all of the appeals is the effect of the development on the character and appearance of the area

Reasons

8. The appeal site is a plot of scrubland, with dwellings to all sides. The area is predominately residential, of relatively traditional designs. The site cannot be seen easily in the wider street scene as it is located to the rear of properties on The Ropewalk. The properties on The Ropewalk are mainly two-storey, whilst the properties on Nursery End are single storey.
9. The original approval and the subsequent recent approval for two dwellings represent a "fallback" position for the applicants for the site, and the principle of residential development for the site is established and is not disputed by the Local Planning Authority. It is the nature of the development that is the heart of the matter.
10. Assessing the siting and design of the appeal proposals is the key issue. I find that the overall site is modest in size and would not easily accommodate multiple dwellings. I note that the density of development in all cases is below what would normally be expected, but I have to take into consideration the site circumstances and surroundings for what is effectively a backland form of development.
11. In this instance, two dwellings have been approved on site and investigating those approvals further, the dwellings sit appropriately and comfortably in the site, and respect the residential nature of their surroundings.
12. I find that in the case of Appeals A, B and D that the number of dwellings, and the siting and layout of those dwellings, would not sit well and integrate with the surroundings of the site, nor would they provide private amenity space of the level that I would expect for dwellings of the size and nature proposed for the site. To a lesser extent, they would also cause harm to the living conditions of the occupiers of properties that surround the site due to the siting and design. Overall, these three appeals would result in a cramped, contrived layout that would not be in keeping with the character and appearance of the area.
13. However, I find that Appeal C, the proposal for three dwellings, one of which would be single storey, would be acceptable in terms of layout and siting, far less cluttered overall, with the single storey dwelling located on the Nursery End side of the site, and therefore integrating with the existing single storey properties in that location. The two storey properties would be sited in a manner that would assimilate well with the taller properties on The Ropewalk side and be in keeping with that locality. Apart from a minor infraction that requires a window to be obscurely glazed to protect privacy, there would be no issue that would affect living conditions to a material level of harm.
14. As such I find that Appeals A, B and D are contrary to Core Policy 9 of the Newark and Sherwood Local Development Framework Amended Core Strategy (adopted 2019) and Policy DM5 of the Newark and Sherwood Local Development Framework Allocations & Development Management Development Plan Document (2013) but Appeal C is consistent with those policies which collectively, amongst other matters, expect development to be of an appropriate form and context, optimise site potential at a suitable level and be in keeping with the general character of existing development in the area.

Conditions

15. The Conditions relate to Appeal C only, as Appeals A,B and D are dismissed.
16. I have taken into consideration the Conditions requested by the Council, and consider that with minor changes to the wording, they are acceptable.
17. Conditions 1, 2 and 16 are in the interests of proper planning, Condition 3 is to protect visual amenity. Conditions 4, 5 and 15 are in the interests of highway safety. Conditions 6 to 10 relate to biodiversity. Condition 11 protects trees and hedgerows. Condition 12 relates to safe and sustainable drainage. Condition 13 retains the privacy of existing occupiers and Condition 14 restricts Permitted Development rights, given the limitations of the site and the need to control any future development and to assess any future proposals for the possibility of causing harm to living conditions for new and existing residents.

Conclusions

18. For the reasons given above, and taking into account all other matters, I conclude that Appeals A,B and D are dismissed (Appeals 3262263, 3263598 and 3263611)
19. With regard to Appeal C (3263609), for the reasons given above, and taking into account all other matters, I conclude that the appeal should be allowed, subject to the conditions set out in the attached schedule.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS (APP/B3030/W/20/3263609 ONLY)

(Application LPA Ref 20/01421/FUL)

1. The development hereby permitted shall not begin later than three years from the date of this permission.

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans :-
 - Scheme B Site Plan – B02
 - Scheme B Plot 1 Elevations – B P1 01A
 - Scheme B Plot 1 Floor Plans – B P1 02
 - Scheme B Plot 2 Elevations – B P2 01
 - Scheme B Plot 2 Plan – B P2 02
 - Scheme B Plot 2 Garage – B P2 03
 - Scheme B Plot 3 Elevations – B P3 01
 - Scheme B Plot 3 Floor Plans – B P3 02

3. No development above damp-proof course/slab level shall take place until full details of the external facing materials (and samples if requested) have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with those approved details.

4. Plots 1 and 3 hereby permitted shall not be occupied until the visibility splays of 2.4m x 43m at The Ropewalk are provided in accordance with Scheme B Site Plan – B02. The area within the visibility splays shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

5. Plots 1 and 3 hereby permitted shall not be occupied until the access to the site has been completed, with a width of 5.25m and surfaced in a bound material for a minimum of 5m behind the highway boundary (back edge of footway), with a suitable means of surface water disposal to be submitted to and approved in writing by the Local Planning Authority.

6. Prior to first occupation of the development hereby approved, full details of both hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority and those works shall be carried out as approved. Locally native plant species shall be used. The details shall include :-
 - Full details of any trees, shrubs and hedges to be planted (to include location, species and size)
 - Full details of any tree planting pits, including irrigation, staking, guards and structural cells.
 - Proposed finished ground levels and contours
 - Means of enclosure
 - Car parking layouts and materials to be used
 - Hard surfacing materials

7. The approved landscaping shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is the soonest, unless agreed in writing with the Local Planning Authority. If within a period of five years from the date of planting, any tree, shrub or hedgerow or its replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted in the same place. Variations may only be planted with the written consent of the Local Planning Authority.

8. No dwelling on site shall be occupied until details including the location of a hedgehog house and a minimum of two bat boxes and two bird nest boxes have been submitted to and approved in writing by the Local Planning Authority. The hedgehog houses/nest boxes shall then be installed, prior to occupation of the associated dwelling, in accordance with the approved details and retained thereafter for the lifetime of the development.

9. No clearance works of vegetation within the site shall take place during the bird nesting season (beginning of March to end of August inclusive).

10. Development shall be carried out in accordance with the submitted Ecological Walkover Survey (dated 12 November 2019) namely Section 4.2 (Evaluation) and the Enhancements section. Details and locations of these enhancements including an implementation and timescale programme shall be submitted to the Local Planning Authority in writing and such measures shall be implemented and retained for the life of the development.

11. The following activities must not be carried out under any circumstances:-

- No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on the proposal site.
- No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on the application site.
- No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
- No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on the application site.
- No soakaways to be routed within the root protection areas of any retained tree/hedgerow on the application site.
- No stripping of topsoils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.
- No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on the application site.
- No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

12. No development above damp-proof course/slab level shall take place until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. Sustainable Urban Drainage Systems (SUDS) should be considered where feasible and details of maintenance and management should be submitted to and approved in writing by the Local Planning Authority. Permeable paving should also be considered to reduce the reliance on mainstream drainage measures and other such water saving measures should be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out thereafter in accordance with the approved details and implemented prior to first occupation of the first unit and retained for the lifetime of the development.

13. The first floor window openings on the north east side elevation of Plot 3 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the dwelling is occupied and thereafter be retained for the lifetime of the development.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development to any unit approved under this permission under Schedule 2, Part 1 of the Order in respect of:-
- Class A: The enlargement, improvement or other alteration of a dwellinghouse.
 - Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
 - Class C: Any other alteration to the roof of a dwellinghouse.
 - Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.
15. Plot 2 shall not be brought into use until the dropped kerb vehicular crossing at Nursery End is available for use and constructed in accordance with the Highway Authority's specification.
16. In the event that the permission hereby approved is implemented, the alternative schemes considered under references 19/02064/FUL, 20/01418/FUL; 20/01422/FUL and 20/01433/FUL shall not be implemented.

END OF SCHEDULE