



Appeal Decision

Site visit made on 21 November 2017

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th December 2017

Appeal Ref: APP/B3030/W/17/3182663

Denholme Cottage, Halam Road, Southwell NG25 0AH

- 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 Mrs Susan Raworth against the decision of Newark & Sherwood District Council.
 - The application Ref 17/00675/FUL, dated 5 April 2017, was refused by notice dated 26 June 2017.
 - The development proposed is a new chalet bungalow to the rear of Denholme Cottage.
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Decision

1. The appeal is allowed and planning permission is granted for a new chalet bungalow to the rear of Denholme Cottage at Denholme Cottage, Halam Road, Southwell NG25 0AH in accordance with the terms of the application, Ref 17/00675/FUL, dated 5 April 2017, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues of this appeal are:
 - Whether the development would preserve or enhance the character and appearance of the Southwell Conservation Area, and;
 - The effect upon highway and pedestrian safety, with particular regard to access arrangements.

Reasons

Character and appearance – Southwell Conservation Area

3. Southwell Conservation Area covers part of Southwell surrounding the broadly west to east route of Westhorpe, Westgate, King Street, Church Street and Burgage, including the historic core characterised by the Southwell Minster, commercial uses, other buildings and open spaces which contribute to its significance. To the west of the historic core and beyond Queen Street, the density of development reduces leading to the section of Halam Road where the site is located and the character is predominantly residential, despite the presence of a nearby school, with a range of historic, traditional and modern buildings of differing style, appearance, scale, proportions and layout.
4. The appeal site lies within the Conservation Area, but close to its edge with the boundary positioned along the shared boundary with Zennor, Rosevear and Bryher that are located outside of the Conservation Area with the latter two

dwellings in a backland position. The site comprises the side garden and part of the rear garden of Denholme Cottage, a two storey building with a distinctive multi-level roof built from red brick and tile roof materials which the Council identifies is of local interest and therefore, is a non-designated heritage asset.

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 131 of the National Planning Policy Framework (the Framework) requires that account be taken of the desirability of sustaining and enhancing the significance of heritage assets, and of new development making a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 135 of the Framework also indicates that the effect on the significance of a non-designated heritage asset should be taken into account.
6. The site is located close to the junction of Halam Road with Kirklington Road. The alignment of the latter road results in a number of buildings which face Kirklington Road within the Conservation Area lying beyond the rear building line of Denholme Cottage in a tight grouping. This includes No 7 Kirklington Road that is positioned almost parallel with the rear boundary of the site resulting in a similar pattern of built form to backland developments outside of the Conservation Area that are visible to the west. Land levels within the site gently slope downwards from Denholme Cottage towards No 7, with boundary hedging that adjoins Halam Road and the surrounding buildings screening much of the site from public vantage points. The majority of the site is currently heavily overgrown with some domestic structures associated with Denholme Cottage that are of little architectural or historic merit which would be removed. Consequently, in its existing condition, the site makes little contribution to the significance of the Conservation Area or Denholme Cottage as a non-designated asset.
7. The proposal seeks a 1.5 storey dwelling in a position close to the rear boundary of the site with No 7 Kirklington Road, with the existing rear garden of Denholme Cottage also subdivided to ensure that each property would be served by its own amenity space. The footprint and scale of the dwelling would be comparable to properties in the surrounding area, including No 7 Kirklington Road nearby. The dwelling would consist of a traditional side gable roof design with chimneys at either end, a catslide roof at the rear and three front roof dormers which are features that are not uncharacteristic of the wider Conservation Area. The brick and pantile materials, fenestration and detailing would be capable of complementing the traditional and historic character of the varied range of different buildings in the area. The agreement of the precise materials for each is capable of being secured by condition.
8. The main public vantage points of the dwelling would be from Halam Road where only glimpses at distance and against the backdrop of other properties and landscaping would be available from the site access. The set back position of the dwelling and the reduced land levels when compared to Halam Road would minimise its visual prominence within the Conservation Area, as views from Kirklington Road would be largely screened by the position of existing properties and established landscaping. The dwelling would not look out of place in such a backland position given the examples of other dwellings nearby in a similar location, both inside and outside of the Conservation Area. Furthermore, the

dwelling would not appear unduly cramped or an over-intensive form of development as it would sit within a generous plot and have gardens that would be larger than a number of properties which face Kirklington Road nearby, as would the remaining plot and gardens of Denholme Cottage. The separation distance to Denholme Cottage and the difference in land levels would ensure subservience and no adverse effect upon the non-designated heritage asset. Grade II listed buildings nearby (Nos. 1 and 2 Halam Road) are more distant and screened by intervening buildings and, therefore, would be unaffected.

9. The surroundings of the site are heavily influenced by the verdant character of trees which are located within the curtilage of properties to the west and would be unaffected by the proposal. The hedge and semi-mature trees within the site adjoining the access point are suitable for removal given their poor condition due to competition arising from mature trees within the curtilage of Zennor and their close proximity to hardstanding which would constrain future growth. There are a limited number of curtilage trees further from the site access, with two semi-mature specimens proposed to be retained as part of the site layout. The remaining ornamental trees are of little amenity value and suitable for removal.
10. The effect of additional hardstanding along the driveway could be mitigated by the installation of stone paving close to the access, with the remaining materials capable of being agreed by condition. Furthermore, the provision of car parking within the site to serve Denholme Cottage could benefit the Conservation Area in terms of reducing existing parking along that property frontage and relocating it to a less prominent position that would be partially screened by a new matching stone wall. The driveway and parking areas would have a similar appearance to existing driveways nearby to the west on Halam Road with the potential to be further softened by landscaping which could be secured by condition. The proposal would, therefore, be capable of maintaining the verdant character of the Conservation Area and its immediate surroundings.
11. Having regard to all of the above, I conclude that the development would preserve the character and appearance of Southwell Conservation Area. The proposal would not, therefore, conflict with Policy CP9 of the Newark and Sherwood Core Strategy (CS), adopted March 2011, or Policies DM5 and DM9 of the Newark and Sherwood Local Development Framework Allocations and Development Management DPD (AM&DM), adopted July 2013, or the relevant Policies HE1, DH1 and DH3 of the Southwell Neighbourhood Plan, adopted October 2016. When considered together the policies seek to ensure new development is of a high quality design which contributes positively in complementing local character, local distinctiveness and a sense of place, whilst preserving or enhancing the historic environment and heritage assets including conservation areas. The policies are consistent with the Framework.

Highway and pedestrian safety

12. Halam Road where it runs past the site has a 30mph speed limit with street lighting and footways to either side. There are no on-street parking restrictions in the immediate vicinity of the site, with the closest being associated with the Kirklington Road junction, bus stops and a crossing further to the east close to the school access on the opposite side of the road. During my visit, Halam Road was lightly trafficked in each direction with significant levels of on-street parking along its northern side. Although my observations reflect only a brief snapshot of highway conditions, there is no evidence before me that it is not representative of

most times of the day. Nevertheless, traffic levels and the number of pedestrians would likely increase in early mornings, late afternoons and early evenings on weekdays, particularly at times of school drop offs and pick ups.

13. The entrance to the site would be located on the outside of a very gentle curve in the alignment of Halam Road. The submitted plans indicate that the access and driveway serving the dwelling would be located immediately to the west of Denholme Cottage and would include a 2m by 2m pedestrian visibility splay on each side prior to the footway with a minimum driveway width of 5.25m for the first 5m beyond the public footway. The submitted plans also identify that a 2.4m by 47m visibility splay for vehicles would be capable of being achieved in each direction from the access. The site is already served by a dropped kerb along the footway where the access is proposed and based upon the evidence before me, the principle of a vehicular access into the site via a dropped kerb was established in 2005 despite the parking area having not been laid out to date.
14. The Council's concerns in terms of highway and pedestrian safety relate to whether the visibility splays from the access could be achieved due to overgrown hedging at the front of Zennor which encroaches upon the footway and the presence of on-street parking nearby to either side of the access. However, I observed that the presence of on-street parking in close proximity to existing driveways is a common feature of the northern side of Halam Road, including the vehicular accesses onto a parking area at the front of Denholme Cottage and Zennor respectively. Consequently, the visibility splays from existing well-established accesses are constrained by the intervening presence of parked vehicles and require a necessary level of care when accessing Halam Road to view vehicles approaching in either direction and those leaving the junction of Wolsey Close. The risk of accidents in those circumstances is currently worsened by the limited depth of frontage parking that serves Denholme Cottage which necessitates reversing manoeuvres either onto or from the highway.
15. The proposal would increase the off-street parking available within the site to serve both the new dwelling and Denholme Cottage. The demand for on-street parking to serve Denholme Cottage would, therefore, be reduced and the visibility towards the west from the existing driveway serving that property would also be enhanced by removal of on-street parking nearby due to the position of the new driveway. Furthermore, it is reasonable that the increased availability of off-street parking to serve occupiers of Denholme Cottage, including a turning area within the site, would likely reduce the frequency of reversing manoeuvres onto or from Halam Road, which would reduce the risk of accidents and would be beneficial to highway and pedestrian safety.
16. Having regard to the above, a minimum width of the driveway of 5.25m for the first 5m from the rear of the footway could be secured by condition to limit the potential for vehicles to obstruct the highway or footway when entering the site whilst other vehicles are exiting. In addition, the 2m by 2m pedestrian visibility splay within the site as indicated on the submitted plans would provide adequate visibility between vehicles exiting the driveway and pedestrians using the footway to ensure pedestrian safety, including those accessing the nearby school.
17. Visibility splays of 2.4m by 47m from the rear of the pedestrian footway would be obscured to the west by an overgrown hedge at the front of Zennor and could not be secured by condition in any case as the land falls outside of the appeal site and the appellant's ownership. Nevertheless, the Council retains powers under

the Highways Act 1980 to cut or fell the hedge if it would endanger or obstruct the passage of vehicles or pedestrians, or obstruct or interfere with the view of drivers. However, such action would appear unlikely to be necessary at present to ensure a safe and suitable access. Use of the pedestrian footway between the site and the carriageway would allow vehicles in forward gear to obtain adequate visibility, beyond parked cars, of vehicles and cyclists' travelling along Halam Road in either direction. Vehicles emerging slowly from the footway while awaiting a gap in traffic would appear to be a common manoeuvre to exit driveways in the area and there is no evidence of accidents between vehicles or pedestrians having occurred as a result. Consequently, the low level of additional traffic and temporary construction traffic arising from an additional dwelling would be accommodated on the local highway network without causing an adverse impact upon highway or pedestrian safety.

18. I conclude that the development would not have a detrimental impact upon highway or pedestrian safety. The proposal, therefore, would not conflict with Policy SP7 of the CS, Policy DM5 of the AM&DM or the relevant Policy TA4 of the Southwell Neighbourhood Plan. When taken together, the policies seek that development provides safe, convenient and attractive accesses for all, would not affect the free flow of traffic, provides appropriate and effective parking provision and would not exacerbate on street parking problems or materially increase other traffic problems. The policies are consistent with the Framework in so far as it seeks safe and suitable access to the site with no severe residual cumulative impacts arising from the development upon highway and pedestrian safety.

Other Matters

19. The dwelling would be located close to the shared boundary with No 7 Kirklington Road. However, the outlook and light provision to existing windows in the facing side elevation of the neighbouring property cannot be reasonably protected, as habitable rooms are alternatively served by windows on main elevations that would be unaffected. Furthermore, appropriate boundary treatments and landscaping could be secured by condition to prevent any privacy concerns arising from the proposed windows and patio doors in the facing side elevation of the new dwelling. There are no windows proposed in the facing first floor side elevation and such a relationship could be preserved by removal of permitted development rights otherwise conferred by the GPDO¹ for the insertion of windows. Consequently, the development would not cause unacceptable harm to the living conditions of occupiers of No 7 Kirklington Road and no contravention of rights under the Human Rights Act 1998 would occur.
20. The separation distance to other surrounding properties, including Denholme Cottage, is more distant and would ensure a satisfactory relationship in terms of outlook and privacy for both the occupiers of neighbouring properties and the future occupiers of the proposed dwelling in terms of outlook, light and privacy.
21. Interested parties raised additional concerns with respect to drainage and flood risk as the site sits higher than No 7 Kirklington Road. However, there is no substantive evidence before me that mitigation could not be provided via a suitably worded condition relating to hard and soft landscaping to prevent additional surface run off or increased flood risk to neighbouring properties.

¹ Town and Country Planning (General Permitted Development) Order 2015

22. The development would make a modest contribution to housing need in an accessible location. The issue of whether or not the Council can demonstrate a 5 year housing land supply has been raised. However, the matter of housing supply is not an influential factor upon the outcome of this appeal as I have found no harm arising from the development and it accords with the development plan and the Framework when taken as a whole.

Conditions

23. The Council provided a suggested list of conditions. Where appropriate, the conditions have been consolidated and the wording has been amended to accord with paragraph 206 of the Framework. In the interest of certainty in terms of the planning permission, conditions indicating the time limit for the development to commence and to ensure that the development is carried out in accordance with the approved plans are necessary. A pre-commencement condition is also required to secure implementation of tree protection measures relating to the trees indicated as to be retained on the approved plans during construction. Notwithstanding the approved plans, details of the finished floor levels shall also be agreed pre-commencement. Precise details of materials (including brick work and other facing materials, roof materials, bond, mortar mix and pointing technique), details of external timber joinery, windows and doors, and other external features (design of window and door heads and cills, verges and eaves and coping, together with any extractor vents, flues, meter boxes, air bricks and soil and vent pipes proposed, and scaled plans of the chimneys and dormers) shall be agreed before any above ground development takes place, with the development carried out in accordance with the approved details.

24. The above conditions are necessary in the interest of the character and appearance of Southwell Conservation Area, together with further conditions relating to boundary treatments and hard and soft landscaping which are also required in the interest of preserving the living conditions of occupiers of No 7 Kirklington Road and future occupiers of the proposed dwelling. A condition to prevent the insertion of additional windows on the northern elevation of the dwelling is also necessary in that respect.

25. As previously mentioned, conditions are necessary to secure the implementation of pedestrian visibility splays of 2m by 2m to each side of the access at the rear of the footway and a minimum driveway width of 5.25m for a distance of 5m from the point of access, in the interest of highway and pedestrian safety. The implementation of those conditions should be prior to the first use of the access and prior to the first occupation of the dwelling respectively. The condition suggested by the Council in terms of the implementation of a dropped kerb is not necessary as it was completed prior to the submission of the application.

26. The Framework indicates that conditions should restrict national permitted development rights only where there is clear justification to do so. Based on the particular circumstances of this case, it is necessary in the interest of the character and appearance of the property in Southwell Conservation Area, to preserve the living conditions of future occupiers of the dwelling and the occupiers of neighbouring properties, to prevent over development of the plot and to ensure adequate private outdoor amenity space for the dwelling. It is appropriate, therefore, to remove permitted development rights for the dwelling relating to Classes A to H of Part 1 and Classes A to I of Part 14 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015.

Conclusion

27. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be allowed and planning permission granted as set out in the formal decision and subject to the conditions in the attached schedule.

Gareth Wildgoose

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1610(P)00; 1610(P)01; 1610(P)02; 1610(P)03; 1610(P)04; 1610(P)05.
- 3) No development shall take place until the trees shown to be retained on drawing number 1610(P)02 have been protected by the following measures:
 - a) a chestnut pale or similar fence not less than 1.2 metres high shall be erected at either the outer extremity of the tree canopies or at a distance from any tree or hedge in accordance with details to be submitted to and approved in writing by the local planning authority;
 - b) no development (including the erection of site huts) shall take place within the crown spread of any tree;
 - c) no materials (including fuel and spoil) shall be stored within the crown spread of any tree;
 - d) no services shall be routed under the crown spread of any tree
 - e) no burning of materials shall take place within 10 metres of the crown spread of any tree.

The protection measures shall be retained during the development of the site, unless otherwise agreed in writing by the local planning authority.

- 4) Notwithstanding condition 2, no development shall take place until full details of the finished floor levels of the proposed dwelling, above ordnance datum and in relation to existing ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) Notwithstanding condition 2, before any above ground development hereby permitted takes place, precise details or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall have been submitted to and approved in writing by the local planning authority. The details shall include brick work and other facing materials, roof materials, bond, mortar mix and pointing technique. Development shall be carried out in accordance with the approved details and/or samples.

- 6) Notwithstanding condition 2, all external joinery shall be of a timber construction only. Before any above ground development hereby permitted takes place, details of the design, specification, method of opening and method of fixing and finish of all external joinery, in the form of drawings and sections to no less than 1:20 scale, along with any product literature, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details.
- 7) Notwithstanding condition 2, before any above ground development hereby permitted takes place, details of the design and treatment of window and door heads and cills, verges and eaves, and coping, together with any extractor vents, flues, meter boxes, air bricks and soil and vent pipes proposed, including drawings and sections at a scale of not less than 1:10, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Notwithstanding condition 2, before any above ground development hereby permitted takes place, details of the construction of the proposed chimneys and dormer windows in the form of scaled plans and sections, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) Notwithstanding condition 2, before any above ground development hereby permitted takes place, precise details of all boundary treatments proposed within the site including types, height, design and materials, shall have been submitted to and approved in writing by the local planning authority. The details shall include the proposed replacement boundary wall as well as any new boundary treatments. The approved details shall be implemented in full prior to the first occupation of the dwelling hereby permitted and shall be retained in accordance with the approved details thereafter.
- 10) Notwithstanding condition 2, before any above ground development hereby permitted takes place, full details of both hard and soft landscaping works within the site shall have been submitted to and approved in writing by the local planning authority. The details shall include:
 - a) A schedule of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities (including planting plans and written specifications, together with cultivation and other operations associated with plant and grass establishment);
 - b) Proposed finished ground levels or contours;
 - c) Materials, including hardsurfacing, to be used for the construction of the car parking areas and other vehicle, pedestrian and circulation areas indicated on the approved plans;
 - d) Proposed and existing functional services above and below ground (i.e. communication cables, pipelines, manholes, foul and surface water drainage, etc), and;
 - e) Any other structures proposed, i.e. refuse or other storage units or lighting columns.

All landscaping works shall have been carried out in accordance with the approved details before the end of the first planting season either following the first occupation of the dwelling or the substantial completion of development,

- whichever is sooner. Any trees or plants which within a period of 5 years from substantial completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 11) The new driveway shall not be brought into use until 2m x 2m pedestrian visibility splays have been provided on both sides of each access measured from the back of the footway in accordance with drawing number 1610(P)02. The pedestrian visibility splays shall be retained thereafter and maintained throughout the life of the development clear of any object greater than 0.25m in height relative to footway level.
 - 12) The dwelling hereby permitted shall not be occupied until the site access, driveway and parking areas have been completed, with the driveway surfaced in a bound material at a minimum width of 5.25m for a minimum distance of 5m behind the highway boundary in accordance with drawing number 1610(P)01. The site access, driveway and parking areas shall remain in accordance with the approved plan thereafter.
 - 13) 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 at first floor level on the northern elevation of the dwelling hereby permitted.
 - 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement, addition, building, structure or alteration permitted by Classes A to H of Part 1 and Classes A to I of Part 14 of Schedule 2 of that Order shall be undertaken to the dwelling hereby permitted or within its curtilage without the grant of planning permission.

END OF SCHEDULE