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# Appeal Decision

Site visit made on 19 December 2017

**by I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

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

**Decision date: 17 January 2018**

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**Appeal Ref: APP/B3030/W/17/3179351**

**Brooklyn, Lower Kirklington Road, Southwell, Nottinghamshire NG25 0DZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Peter Burrows of Twyford Estates Limited against the decision of Newark & Sherwood District Council.
  - The application Ref 17/00383/OUT, dated 23 February 2017, was refused by notice dated 12 May 2017.
  - The development proposed is the erection of 3 dwellings.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 dwellings at Brooklyn, Lower Kirklington Road, Southwell, Nottinghamshire NG25 0DZ in accordance with the terms of the application, Ref 17/00383/OUT, dated 23 February 2017, subject to the conditions in the schedule at the end of this decision.

## Procedural matter

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account only insofar as they are relevant to my consideration of the principle of the development on the appeal site.

## Main Issues

3. The main issues in this appeal are;
  - whether the location of the proposed development complies with the development plan;
  - whether the proposed development would provide housing on the site in line with the identified housing need in Southwell; and,
  - the effect of the proposed development on the character and appearance of the area and biodiversity.

## Reasons

### *Location of development*

4. Southwell is categorised as a Service Centre by the Newark & Sherwood Core Strategy ('Core Strategy') and has a range of services and facilities. The appeal site lies within the urban boundary of Southwell where policy DM1 of the Newark & Sherwood Allocations and Development Management Development Plan Document (ADMDDP) supports new housing development.

5. It is stated that the Council's Allocations and Development Management Options Report considered the site to be unsuitable for development because of the trees on the site, indications of past flooding and highway related constraints. Nevertheless, as a windfall site, the principle of its development for housing is supported by the development plan, subject to matters of planning concern being addressed.

*Housing need in Southwell*

6. Core Policy 3 of the Core Strategy requires the Council to seek to secure new housing to meet the needs of the District informed, among other matters, by localised housing need information. In terms of dwelling size at District level, these needs are for family housing of 3 bedrooms or more and smaller houses of 2 bedrooms or less.
7. At a local level in Southwell, the ADMDPD identifies that the need for housing is acute and indicates that the greatest need is for one or two bedroom dwellings. Policy So/HN/1 of the ADMDPD seeks to address this by requiring that the majority of new housing on windfall sites consists of one or two bedroom units. Although the application is in outline, it is clear from the comments of the appellant and the indicative site plan that three houses proposed on the site would have more than two bedrooms.
8. The view of the appellant is that smaller houses would not make efficient and effective use of the site and are unlikely to be viable. Smaller houses though would allow a larger number of dwellings to be accommodated on the site and no viability assessment has been submitted demonstrating that the proposed development would be unviable. I therefore find that the proposed development would be contrary to policy So/HN/1 of the ADMDPD.
9. However, the ADMDPD was adopted in 2013 and the justified reasoning for policy So/HN/1 explains that it is based upon the Housing Needs Assessment which informed the preparation of the Core Strategy. As the Core Strategy was adopted in 2011, the data upon which this policy is based is at least 7 years old.
10. The most recent evidence on housing need is the Housing Market Needs Sub Area Report which was published in 2014. It found in Southwell that there was a greater need for houses of 3 or more bedrooms than there was for properties of two bedrooms or less. As a result, the proposed development would provide housing of a size for which the current local evidence is the greatest need exists in Southwell. This is an important material consideration which, in my judgement, given that policy So/HN/1 of the ADMDPD is based upon significantly older evidence, outweighs non-compliance with this policy. Owing to the more recent evidence on housing, I find that the proposal would comply with Core Policy 3 of the Core Strategy.

*Character and appearance, and biodiversity*

11. Brooklyn is a detached dwelling located at the western edge of built development associated with Southwell on the southern side of Lower Kirklington Road. The appeal site is greenfield land that extends a significant distance to the rear of the property. The site is hidden from public view from Lower Kirklington Road, but in views from the public footpath to the south of the site the dense band of trees and shrubs towards its western and southern boundaries is apparent. Although the trees are not worthy of protection by a

- tree preservation order they contribute to the undeveloped character and appearance of the area and screen housing to the east from view.
12. With residential development in depth to the east of the site and open green fields to the west, the appeal site is therefore at a point of transition. As a result, in its current undeveloped state, or developed in depth as proposed, it would equally complement its surroundings.
  13. To the west of the site, beyond a long narrow plot of overgrown allotments, an allocated housing site wraps around the western side and southern end of the appeal site. In time therefore it is reasonable to assume that the appeal site will become enclosed on all sides by housing, lending further weight to residential development of the appeal site complementing the pattern of development in the area.
  14. Although a new access onto Lower Kirklington Road would be created to serve the site, it would be low key and in conjunction with future accesses to allocated sites on either side of the road would not result in over intensive development that would harm to the character and appearance of the area.
  15. Based upon the submitted drawings the proposed development at a density of approximately 8 dwellings per hectare (dph) would have a significantly lower density than the 30 dph sought by Core Policy 3 of the Core Strategy. However, given the long narrow nature of the appeal site, the need to retain some of the shrubbery and better trees due to the positive contribution they make to the character and appearance of the area, and the presence of spaciously set detached dwellings on the eastern side of the appeal site, circumstances are such that in accordance with Core Policy 3 the indicated density would be acceptable. Furthermore, with the control that exists at reserved matters stage there is no reason why well designed houses that complement the appearance of housing in Southwell could not be achieved.
  16. There are no protected species on the site, nor are there areas of high ecological value. Given the scope for ecological enhancement, which could be secured by condition, I therefore find that biodiversity would not be adversely affected by the proposal.
  17. Taking all these matters into account, I therefore conclude that the proposed development would complement the character and appearance of the area and would not harm biodiversity. It would therefore comply with policies 9 and 12 of the Core Strategy, policies DM5 and DM7 of the ADMDPD and policy E3 of the Southwell Neighbourhood Plan. Policies 9 and DM5 require the protection of the character and appearance of a locality through high quality design and policies 12, DM7 and E3 require the protection and enhancement of biodiversity.

### **Other matters**

18. The appeal site is located within Flood Zone 1, which is the zone with the lowest probability of river or sea flooding. A Flood Risk Assessment has been submitted whose findings have been accepted by the Council. It states that adequate surface water drainage to avoid flooding from rainfall can be provided on the site. This is a matter that can be secured by condition.
19. In terms of highway safety, the local planning authority has no objections subject to the provision of adequate on-site parking and the access meeting its detailed design criteria. I saw no reason why either could not be achieved and I have no reason to disagree with those conclusions.

## **Conclusions**

20. For the reasons given above, and having regard to all other matters raised, the appeal should therefore be allowed. In reaching this decision the views of Southwell Town Council, Southwell Civic Society and the local councillor have been taken into account.

### *Conditions*

21. In the interests of certainty, I have imposed a condition specifying the relevant drawings that the development is to be carried out in accordance with. In order to ensure that the development complements its surroundings, further details on external materials and landscaping are required. To ensure that any soft landscaping becomes properly established it needs to be maintained.

22. In the interests of highway safety, the access needs to be of a minimum width, a dropped kerb provided and adequate visibility splays provided. To provide adequate drainage and protect public health details of surface water and foul drainage are necessary.

23. To protect wildlife, the timing of the removal of trees and vegetation needs to be controlled, steps need to be taken to protect wildlife during construction, and a bat emergence survey carried out and submitted for approval. To improve biodiversity in accordance with Core Policy 12 of the Core Strategy, a scheme of ecological enhancements is necessary.

24. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.

*Ian Radcliffe*

Inspector

## **Schedule**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan drawing no. 118.F01, Proposed Access Layout and Details on drawing no. 2016.6848.184, but only in respect of those matters not reserved for later approval.

- 5) Notwithstanding condition 4, details submitted pursuant to the application for approval of reserved matters consent shall include the following which the development shall be carried out in accordance with:
- (i) a minimum access width of 4.8 metres for the first 10 metres behind the public highway boundary (with an additional 0.5m if bounded by a wall, fence or hedge; 1.0m if bounded on both sides).
  - (ii) a dropped kerb crossing of the existing footway.
  - (iii) visibility splays in accordance with the County Council's current Highway Design Guide. [It is noted that splays of 2.4m x 65m to the south east and 2.4m x 140m to the north east are submitted as being available and if achieved these are acceptable].
- 6) No development shall be commenced until details of external facing materials, bricks, roofing tiles, cladding and render have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.
- 7) No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.
  - existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
  - proposed finished ground levels or contours;
  - means of enclosure
  - car parking layouts and materials
  - hard surfacing materials
- 8) The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/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 unless otherwise agreed in writing by the local planning authority.
- 9) No development shall be commenced 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. The development

shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- 10) Before development commences, a scheme of ecological enhancements to be incorporated in to the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include (but is not limited to) the installation of bird, bat and hedgehog boxes and shall detail the design, number and precise location of these on site. The approved scheme shall be implemented on site prior to first occupation of any dwellings on the site and shall be retained for the lifetime of the development.
- 11) No tree/vegetation removal to facilitate the development shall take place during bird-breeding season, which runs from March to September (inclusive) unless a nesting-bird survey is carried out by a suitably qualified ecologist prior to works going ahead and that the results of any such inspection are recorded and retained for inspection on the request of the Local Planning Authority. If active nests are found then the vegetation clearance works shall be delayed until all chicks have fledged.
- 12) Before any trees are removed on the application site the results of a bat emergence survey in accordance with the recommendations at Paragraph 3.2 of the CBE Consulting Protected Species Survey dated 20 February 2017 shall be submitted to and approved in writing by the Local Planning Authority.
- 13) Any trenches dug during works activities shall, if left open overnight, be left with a sloping end or ramp to allow any badgers or other animal that may fall in to escape. Any pipes over 200mm in diameter should be capped off at night to prevent animals entering.

-----End of Conditions Schedule-----