



Appeal Decision

Site visit made on 26 April 2022

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 August 2022

Appeal Ref: APP/H4505/W/22/3292899

25 Cornmoor Road, Whickham NE16 4PU

- 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 Nicola Allan Associates against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/21/00559/FUL, dated 23 April 2021, was refused by notice dated 27 October 2021.
 - The development proposed is the erection of house with garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of house with garage at 25 Cornmoor Road, Whickham NE16 4PU in accordance with the terms of the application, Ref DC/21/00559/FUL, dated 23 April 2021, subject to the conditions set out in the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposed development on the character of the 'Broom Lane / Whaggs Lane, Whickham' Area of Special Character.

Reasons

3. The appeal site lies off Cornmoor Road, at the rear of 25 Cornmoor Road. The residential area broadly set within Whaggs Lane to the west, Millfield Road to the north and Broom Lane to the south and east forms the 'Broom Lane / Whaggs Lane, Whickham' Area of Special Character (ASC). Although the extent of the ASC deviates slightly from strict alignment with these perimeter roads, Cornmoor Road and the appeal site lie within the heart of the ASC.
4. The development plan for Gateshead is comprised of the 'Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne' (CSUCP) and the 'Making Spaces for Growing Places' (MSGP) Local Plan Document. MSGP policy MSGP23 identifies a number of ASCs within the borough, the details of which are set out within the Council's 'Placemaking' SPD¹.
5. The Broom Lane / Whaggs Lane ASC is described therein as being Gateshead's first designated ASC and noted as being characterised by low density houses and bungalows set well back from the roadside with a consistent building line, in deep plots, often fronted by hedges, and with a dense coverage of mature trees is an accurate one. It goes on to note that the character of the Broom Lane / Whaggs Lane ASC was affected adversely in the late 1980s and early 1990s by infill and backland development of individual houses and small housing estate culs-de-sac.

¹ Broom Lane / Whaggs Lane, Whickham ASC is described at MSGP23.20 and within the 'Placemaking' SPD

6. The design guidance set out in the SPD in relation to the Broom Lane / Whaggs Lane ASC is, amongst other things, to 'resist backland development within the gardens to protect the character and setting of existing buildings', to resist infill development which would detract from the setting of existing buildings and the character of the locality and to preserve existing open space and mature trees. No. 25 is a large bungalow set within a generous plot reflective of the broad characteristics noted in the SPD. A substantial timber fence currently separates a landscaped and well-manicured garden plot at the rear of No. 25 from the area of the appeal site upon which the dwelling is proposed.
7. Although the latter area of land is unkempt, I do not consider its condition or the presence of the fence and gate separating it from the former to be telling. I was, at the time of my visit, able to freely pass from one area of land to the other by both the panel gate within the fence, and the five-bar-gate from the side access. Indeed, it strikes me that such measures are a sensible precaution given the nature of the excavations within the rear portion of the appeal site. Nevertheless, the appeal site itself is broadly consistent with the ASC's prevailing character as described in the SPD.
8. I saw that the garden plots on either side of No. 25 provide examples of how the large garden plots typical of this ASC have been sub-divided in the past. Indeed, from within the rear of the appeal site where the proposed dwelling would be sited, a number of dwellings are clearly visible at the rear of dwellings that front Cornmoor Road, particularly those on either side, but especially No. 27a to the south. Dense tree, shrub and hedge vegetation to the rear provides a relatively robust backdrop to the plots and separates the appeal site context (and that of its Cornmoor Road neighbours) from properties on Whaggs Lane to the west. Whilst the wider characteristics of the ASC are noted, and also noting the Council's concern regarding development patterns in the late 1980s and early 1990s with plot sub-division, the appeal site's immediate surroundings are nevertheless very much characterised by residential development in the manner sought by the appeal proposal.
9. The proposed dwelling would be set towards the rear of the sub-divided plot at No. 25. Although it would be visible in part along the length of the narrow driveway to the side of the existing house at No. 25, it would only be glimpsed, and those glimpsed views would be dynamic in nature when passing along Cornmoor Road. Furthermore, in those glimpses when it would be visible, the existing boundary vegetation between neighbouring properties would soften foregrounds views, whilst the more substantial backdrop vegetation would remain visible and provide a pleasant context and setting for the proposed dwelling.
10. Thus, the depth of the plot, the length and limited width of the drive, vegetation at the front and sides of the appeal site and those around it and the limited spacing between the two properties combine to ensure that the proposed dwelling would not be a dominant feature. Nor would the proposed dwelling compete with or detract from the prevailing character of the Cornmoor Road frontage, or the setting of No. 25 or its neighbours from the street frontage.
11. As the SPD's design guidance is set out in the context of being principally concerned with protecting the character and setting of existing buildings with regard to backland development, I am not persuaded that the proposed

dwelling would compromise the setting of No. 25, or indeed that of the buildings around it. Whilst it would also result in the creation of a sequence of at least four backland dwellings, I do not consider that this would have a materially greater impact on the prevailing character of the appeal site's immediate area, or indeed that of the wider ASC. Even if the proposal were to be considered as infill, rather than backland, development and thus coming within the slightly wider scope for infill within the SPD, the insertion of an additional dwelling between two already dominant properties, within this particular and immediate context would not be harmful to, nor would it cause harm to, the overall character or appearance of the ASC.

12. I appreciate that there may be circumstances where adjacent and nearby garden plots have not been developed where the development of a new dwelling in those circumstances would cause clear, demonstrable and material harm to the ASC's prevailing character. I accept too that the Council's concerns regarding previous development patterns may be, and have been, well-founded and I understand the aim of ASC designation and the SPD's design guidance as a means to prevent further dilution of that fundamental character.
13. In identifying a number of ASCs, MSGP policy MSGP23 states that development will maintain or enhance the character of the area. Inappropriate development will be resisted. The SPD sets out design guidance within the Broom Lane / Whaggs Lane ASC stating that backland development within gardens and infill development will be resisted to protect the character and setting of existing buildings. MSGP policy MSGP24 and Core Strategy (CS) policy CS15 set out the Council's approach to design quality and place making. Proposals will be assessed against a range of factors, including compatibility with local character and distinctiveness, proportions and form, the space between buildings and the quality of landscaping.
14. Whilst the aims and purposes of the SPD with regard to the Broom Lane / Whaggs Lane ASC are matters to which I have given careful consideration, the site specific circumstances of the appeal site lead me to conclude that the proposal would not cause harm to the character or appearance of existing buildings or the wider ASC. I also accept that the Broom Lane / Whaggs Lane ASC is characterised by large and often verdant and sylvan garden plots, and inappropriate development, whether infill or backland, has the potential to significantly and harmfully erode that character.
15. However, the character of the appeal site and the immediate area around it is very heavily influenced by existing 'backland' houses, notably on the plots either side of the appeal site, but also other properties further up and down the street. In this respect, the proposed development would be in line with the surrounding area's prevailing built form, development pattern and thus, its overall character and appearance.
16. Although the Council consider that the creation of a continuous run of four backland plots would be harmful, it is not possible to ignore the fact that there are already three such developments within four plots. The proposal would not harm, or materially alter, the essential composition of this area's character or appearance. Nor would the proposal be disruptive to the character or appearance of the Cornmoor Road streetscene as the dwelling would be so heavily set back from the roadside that it would only be glimpsed through the

gap between Nos 25 and its neighbour to the north. This would not upset the essential character of the street and ASC derived from the set-back building line behind hedge-lined and well-stocked front gardens and well-spaced buildings.

17. However, from my observation of the site and its surroundings a dwelling of the nature proposed in this instance, on this site and within the context of its immediate surroundings, would not compromise or cause harm to the prevailing character, characteristics or appearance of the Broom Lane and Whaggs Lane Area of Special Character. There would be a reduction in open space within the appeal site but given the significant presence of dwellings on either side of the appeal site, this reduction would not translate to harm to the character or appearance of the existing buildings or the wider ASC.
18. There is no suggestion that the detailed design of the proposed dwelling is not acceptable to the Council, and I see no reason to disagree. Flanked by a substantial two storey house on one side and a more modest bungalow to the other, the proposed dwelling would be a contemporary design of a scale not inconsistent with that of those around it. For these reasons, I am satisfied that there would be no conflict with the aims and provisions of CS policy CS15 or MSGP policies MSGP23 and MSGP24. Nor would the proposal compromise the aims, provisions or design guidance set out within the SPD with respect to the Whaggs Lane ASC.

Other Matters

19. The stated history of the appeal site, including the portion of it within which the proposed dwelling would be constructed, is both lengthy and complex. A planning permission for a dwelling, the approval of which drew heavily on a previous approval of a certificate of lawfulness for a building for purposes incidental to the enjoyment of No.25 as a dwellinghouse, has since lapsed whilst the Council maintain the circumstances on the ground are such that the foundations and works are not, and cannot, be those set out within the certificate of lawfulness. It is on this matter that the presence, or otherwise, of a fallback position depends.
20. From the evidence before me, the area of land within which the proposed dwelling would be constructed is within the same occupation and usership, by way of a long lease, as that of the house at No. 25. I saw that the timber fence, to which the Council refer, was in place at the time of my visit. However, I do not share the Council's view that direct access between the areas of land on either side of the fence is not possible; such access was available at the time of my visit via a 5-bar gate and driveway at the side of No. 25 and through timber panel gates from the landscaped garden immediately to the rear of No. 25.
21. Nor does the physical and visual condition of this area of land relative to the landscaped garden immediately at the rear of No. 25 necessarily indicate that the land is not or could not be used as part of an extended garden area to No. 25. Indeed, with the exposed foundations and excavations that are present, a means of preventing unwanted access from the former area to the latter seems to me to be a reasonable and sensible precaution rather than an indication of any intent to detach one area of land from another. However, as I have concluded that the proposed development would not compromise or cause harm to the character or appearance of the appeal site and property, the

surrounding area or the Whaggs Lane ASC, the matter of the site's planning history has not been determinative in this instance.

Conditions

22. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. Where necessary and in the interests of brevity I have amalgamated some of the conditions where they are tailpieces clearly related to each other.
23. Although not specifically set out by the Council time limit and plans conditions are necessary and relevant in order to provide certainty and in the interests of good planning. A materials condition including, where necessary and appropriate, provision for submission of samples of materials, is reasonably required in the interests of character and appearance. So too, details of refuse storage in the interests of the satisfactory appearance of the development and in order to ensure appropriate provision is made and retained for such matters.
24. Although the Council have suggested intrusive ground contamination conditions, the officer report appears to suggest that the conclusions of the Preliminary Risk Assessment were sufficient to allay potential concerns in this respect. I therefore find that the more onerous conditions set out by the Council at the appeal stage have not been adequately justified and I have not, as a consequence, imposed those conditions. A coal mining ground conditions condition is, however both reasonable and justified.

Conclusion

25. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

G Robbie

INSPECTOR

Schedule of 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: 1821_P_001; 1821_P_002 Rev B; 1821_P_003 Rev B; 1821_P_101 Rev C; 1821_P_102 Rev B; 1821_P_103 Rev B; 1821_P_105 Rev A and 1821_P_106 Rev A.
- 3) The development hereby approved shall not progress above damp proof course until an external materials schedule has been submitted to and approved in writing by the Local Planning Authority and (where requested) samples of the materials, colours and finishes to be used on the external surfaces have been made available for inspection on site and subsequently approved in writing by the Local Planning Authority. The development hereby approved shall be undertaken in accordance with the approved materials schedule.
- 4) All external works and ancillary operations in connection with the construction of the development, including deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Saturdays and at no time on Sundays, Bank Holidays or Public Holidays
- 5) Prior to the first occupation of the dwelling hereby approved, final details of refuse storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse storage facilities shall be installed in accordance with the approved details prior to the first occupation of the approved dwelling.
- 6) Prior to the commencement of the development hereby approved intrusive site investigation works shall be undertaken in order to establish coal mining legacy issues on site. The findings of the intrusive site investigations works in relation to coal mining legacy issues along with details of any remedial works (and timescales) required shall be submitted and approved by the LPA prior to the commencement of the development hereby approved. Any remedial works identified shall be implemented in accordance with the timescale set out in the approved findings.

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