



# Appeal Decision

Inquiry opened on 23 October 2007

Site visit made on 23 November 2007

by **Mrs K.A. Ellison** BA, MPhil, MRTPI

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

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Decision date:  
18 December 2007

**Appeal Ref: APP/P3040/A/07/2046403**

**Land at Selby Lane, Keyworth, including Nos 24 and 30 and Wrights Garage, Nottinghamshire NG12 5AH**

- 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 William Davis Ltd against the decision of Rushcliffe Borough Council.
- The application Ref 06/02063/FUL, dated 4 December 2006, was refused by notice dated 7 March 2007.
- The development proposed is the demolition of two dwellings and Wrights Garage and construction of 48 two bedroom sheltered apartments with two residents' lounges and associated site works.

## Decision

1. I allow the appeal and grant planning permission for the demolition of two dwellings and Wrights Garage and construction of 48 two bedroom sheltered apartments with two residents' lounges and associated site works on land at Selby Lane, Keyworth, including Nos. 24 and 30 and Wrights Garage, in accordance with the terms of the application Ref 06/02063/FUL dated 4 December 2006 and the plans submitted with it, as amended, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) No development shall take place until details of the facing and roofing materials to be used on all external elevations have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 3) The hard and soft landscaping proposals shown on Drwg Nos 06.678 001A, 002A and 003A shall be completed within 1 year of the development being brought into use, or such longer period as may be agreed in writing with the local planning authority. If, within a period of 5 years from the date of planting, any tree or shrub dies or is removed, uprooted or destroyed, another of the same species and size shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
  - 4) No development shall take place until details of all screen fencing, walling and means of enclosure have been submitted to and approved in writing

- by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority and shall allow that person to observe the excavations and record items of interest and finds.
  - 6) Development shall not begin until a scheme for the disposal of foul and surface water, including the prevention of surface water run-off onto Selby Lane, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 7) Development shall not begin until details of the junction between the proposed access road and Selby Lane have been submitted to and approved in writing by the local planning authority. Such details shall include access widths, gradients, surfacing materials and visibility splays, including pedestrian visibility splays. No apartment shall be occupied until the junction has been constructed in accordance with the approved details.
  - 8) Development shall not begin until a programme for the closure of the existing accesses and reinstatement of the highway has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 9) Development shall not begin until details of the guttering arrangements of the 2.5 storey units have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 10) Remediation work shall be carried out in accordance with the Recommended Remedial Measures set out in the Site Appraisal. If contamination is encountered which has not previously been identified, it shall be fully assessed and appropriate remedial measures agreed with the local planning authority. No apartment shall be occupied until evidence has been submitted to and approved in writing by the local planning authority verifying that the remediation work has been carried out in accordance with the approved scheme.

### **Preliminary Matters**

2. The Inquiry opened on 23<sup>rd</sup> October and sat for three days, these being 23<sup>rd</sup> and 24<sup>th</sup> October and 23<sup>rd</sup> November 2007.
3. At the Inquiry, it was confirmed that the appeal plans consisted of the following: in the series 7859, plans P01, P02, P03, P04 (amended version dated 2<sup>nd</sup> March 2007), P05, P06, P07, P08, P09, P010, P011, P012, P014 and P015; in the series 06.678 plans 001A, 002A and 003A; and two unreferenced photomontages which had been submitted to the Council on 18 January 2007.
4. A planning obligation has been submitted concerning the provision of affordable units as part of the development, the minimum age for

occupation of the apartments and the making of contributions in relation to health care and transport.

### **Policy**

5. The development plan currently consists of the Regional Spatial Strategy and the Nottinghamshire and Nottingham Joint Structure Plan 2006. Structure Plan policy 3/6 allows for housing development in larger villages where, amongst other things, the scale of development is related to existing character. Policies H2 and ENV 1 of the Rushcliffe Borough Local Plan 1996 set out a number of criteria for development including effect on the character or pattern of the surrounding area and its effect on amenity. Similar requirements were carried forward into policies GP2 and HOU2 of the Rushcliffe Borough Non-Statutory Replacement Local Plan. These policies have played a part in the preparation of the proposal as well as the Council's determination of the planning application and, on that basis, I regard them as carrying a limited amount of weight in relation to this appeal, even though they do not have effect as part of the formal development plan framework.
6. In the absence of detailed guidance within the development plan, I have had regard to Planning Policy Statement 1: *Delivering Sustainable Development* (PPS 1), Planning Policy Statement 3: *Housing* (PPS 3) and Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS 7) as important material considerations.

### **Reasons**

7. The appeal site is broadly rectangular in shape, having its longer frontage to Selby Lane. It presently contains two bungalows in generous gardens set to either side of Wrights Garage, which includes a fuel station, repair garage and coach business. Within the development, 14 affordable units would be provided.

#### *Effect on the character and appearance of the surrounding area*

8. Although Keyworth is a settlement of some size, the traditional centre - which is also a conservation area - lies towards the southern part of the village. Thus, even though the appeal site is almost contiguous with the defined historic core of the village, it also borders open countryside.
9. Properties towards the eastern end of Selby Lane are mainly residential in use, domestic in scale and set well back in large plots. Although perfectly agreeable in terms of their appearance these properties as a group are, to my mind, generally unremarkable. In contrast, the older buildings on Main Street and the western end of Selby Lane - many of which are within the conservation area - create an attractive and varied streetscene. As the Design and Access Statement notes, these are the buildings which provide the most important references for local character, particularly in their differing storey heights and the random, often terraced sequence of gables and flat frontages. The appeal proposal clearly takes its cue from these older buildings so that, in my opinion, it would reinforce local distinctiveness.

10. The apartments would be arranged in three blocks, with the site being served by a single vehicular access. Of particular note is the adoption of a design concept which breaks down the massing of the blocks to the scale of individual flats, giving each flat its own roof and creating low level corridor links. Thus in the principal view from Selby Lane the blocks would appear as three, short terraces of two storey dwellings. Moreover, the design concept means that, when viewed from other perspectives within and from the rear of the site, this modest scale and massing would be carried through into all viewpoints. In addition, the building line would reconcile the forward line of the older properties, generally positioned at back of pavement, with the recessive line of properties further east along Selby Lane. To my mind, these design choices represent a positive response to the mixed local context and would enable the development to be successfully integrated into the form and layout of this part of Keyworth.
11. The Council objected particularly to the 2.5 storey elements incorporated in blocks 1 and 2, and these were also the focus of much of the concern expressed by local residents. At this point, the blocks would be some 11.8m to ridge, as compared with the frontage development of about 9.5m. Comparison was also made with an existing row of conifers within the site. In the light of the Design and Access Statement, and following my site inspection, I take the point that, although there is a three storey Georgian house on Main Street, these taller elements of the scheme do not reflect a development style characteristic of traditional residential development in Keyworth. As such, this aspect of the design would be a visible expression of the relatively high density of this development as well as its contemporary nature. In these respects, the proposal would differ from the more spacious, one and two storey dwellings in the immediate locality.
12. However as the photographs submitted in support of the proposal show, there are instances of development of comparable scale in Keyworth, for example in the shops around Wolds Drive or the health centre. The photographs also show that rooms in the roofspace are commonly found in older and more recent housing developments, in village as well as urban settings, so that such a feature should not be seen as unacceptable or undesirable in this setting simply on the basis of its height. Thus, even though this particular form of development is not widely found in Keyworth, it does not follow that it would be inherently unacceptable in the village.
13. Moreover, PPS 3 is quite clear that the density of existing development should not dictate that of new housing. In terms of appearance, these upper floors would be well related to the overall development, for example though the continuing use of varied gables and frontages. In my opinion therefore, the 2.5 storey elements would not be alien to or incompatible with, the scale of this development or that of the village as a whole. As regards density, I appreciate that 48 apartments in place of the two existing bungalows would represent a significant intensification in terms of residential use. However, as stated at the Inquiry, the garage business generates some 600 vehicle movements each week, including coaches and delivery vehicles, indicating that there is already quite a high level of activity in this part of Selby Lane. Despite the number of comings and goings associated with the proposed apartments, it seems to me that the

overall level of activity would not be materially greater, meaning that the character of this part of Selby Lane would be unharmed in this respect.

14. The terraces along the front would screen most views of the 2.5 storey elements from Selby Lane but they would undoubtedly be readily visible in direct views into the site, owing to their position to either side of the access road. I consider that partial views could also be possible from nearby Elm Avenue. However, the taller elements would be set back in to the site and seen in the context of the two storey terraces along the front. On that basis I am satisfied that, even though they would be visible, they would not be unduly intrusive with regard to the Selby Lane streetscene. A number of residents also expressed concern as to the potential impact of these taller elements on the wider townscape. Whilst I agree that they would be visible from more distant viewpoints such as Widmerpool Lane or High View Avenue, they would appear as part of the scheme as a whole and would form part of the varied skyline presented by this part of the village. In my judgement, the height and massing of the scheme would not harm either the immediate townscape of Selby Lane or the setting of Keyworth in the wider countryside.
15. In its relationship with Main Street and the eastern end of Selby Lane, I have found that the proposal would reflect the most distinctive aspects of the local built environment. Although it would represent an intensive level of use, as expressed in the use of the 2.5 storey elements, its design would respect the scale and massing of the surrounding area and would not harm the countryside setting of the village. The development would be well related to the existing character and pattern of Keyworth, as required by Structure Plan policy 3/6 and policies in the Local Plan and Replacement Local Plan. By drawing on key features of the older built form of the village, the proposal would make appropriate use of the opportunities available to improve the character and quality of the immediate area, including its rural setting, in accordance with the national planning policy as set out in PPS 1, PPS 3 and PPS 7.

*Effect on the living conditions of nearby residents*

16. Given the relationship with surrounding properties, there would be a number of views from the apartments towards existing houses and gardens. In the cases of Field View and Nos 7 – 15 and 18-20 Selby Lane, I am satisfied that the distances involved and limited views available would be such that existing levels of privacy would be maintained. However, as the Appellants acknowledge, the garden to No 5 Selby Lane would be overlooked at first floor level from a distance of about 13m. Whilst this may not directly contravene the Council's advice in *Space Between Buildings*, I recognise the very real concern that the garden would no longer enjoy its current high level of privacy. Nevertheless, it seems to me that the scope for overlooking would relate mainly to the small number of windows belonging to the apartments directly opposite. Such views would take in the general context of activity on Selby Lane as well as the wider surroundings and so would not necessarily focus directly on this particular garden. Thus, even though the amenity value of the garden area would be diminished, it would not in my judgement give rise to an intolerable loss of privacy. Given the angle of view, I am not convinced by the Council's

suggestion that the situation would be materially different if this block had been positioned further back into the site.

17. It was also suggested that the propensity for overlooking would be greater due to living room windows being at first floor level and because this would be a sheltered housing scheme. Whilst future residents may be affected by age or infirmity, I see no reason to expect that they would have any greater interest in their neighbours' business than the population in general. In my opinion therefore, such suggestions are not well founded. As regards the outlook from Nos 7 and 9 Selby Lane towards the access road and the taller 2.5 storey elements of the apartments, I have already noted that the development would not be unacceptably intrusive in the general streetscene. Similarly, I consider that it would not have an overbearing effect on the outlook from properties opposite.
18. At the Inquiry, points were also made that, owing to the density of the scheme, facilities for future occupants would be deficient in terms of the quality of amenity space, absence of windows to some living areas and the creation of a poor outlook from some apartments towards parking spaces and bin stores. However, the amenity space would provide a reasonable choice of sitting out areas as well as being well related to the use of the site. I note that a kitchen or bathroom window may be particularly valued by some people but the absence of such a feature does not, on its own, indicate a lack of quality in living conditions. Whilst windows to some ground floor apartments would look towards the access road and parking spaces, such views would be comparable to those found in many residential streets. Although bin and buggy stores would be visible from other windows, I consider that these features would not be unsightly or intrusive. It was also pointed out that the footway between the appeal site and the village centre becomes quite narrow in places. Whilst this would cause difficulties for users of mobility buggies or wheelchairs, it seems to me that they would not be so serious as to present a material risk to road safety.
19. With regard to Field View I appreciate that, given the location of the parking spaces, bin store and cycle shelter close to this boundary, the level of activity associated with the apartments would be greater than the low key use of the existing bungalow. However, at the time of my site inspection I noted that activities from the garage site were clearly audible, indicating that the present situation affords only a limited degree of buffering. Given the intrusive nature of the commercial use I consider that, on balance, the proposed apartments would not give rise to a greater degree of disturbance.
20. The redevelopment of the appeal site in the manner proposed would clearly bring about a number of changes for those who live nearby but only a limited degree of harm has been established which relates specifically to the garden to No. 5 Selby Lane. On the other hand, I am mindful that there have also been expressions of support for the proposal, especially from residents who live directly across from Wrights garage who stand to gain from the removal of this commercial use. Taking all of these matters into account, the proposal would not, in my judgement, have an unacceptably adverse effect on the overall living conditions of nearby residents. In terms of amenity, it would not compromise the quality of the

environment, as required by PPS 3, nor would it conflict with the relevant policies of the Local Plan and Replacement Local Plan.

### **Conditions and Planning Obligation**

21. I have considered the conditions suggested by the Council. I have imposed a condition requiring details of the materials to be used in order to control the appearance of the development. In my view, the hard and soft landscaping plans contain sufficient detail to demonstrate that these aspects of the development would be provided to an appropriate standard so that a single condition concerned only with the matter of their implementation will suffice. Details of means of enclosure will be necessary to ensure the appearance of the development is acceptable and to protect the amenities of adjacent residents. The site has potential interest because of its position close to the historic core of the village so that it is reasonable to attach a condition to permit archaeological access.
22. Since the plans do not give details of drainage or access arrangements, conditions on each of these matters are necessary to ensure that they are provided to an acceptable standard. These would, respectively, encompass matters such as surface water run off, pedestrian visibility splays and type of surfacing materials so that further, separate conditions would not be necessary. The treatment of the existing accesses should be addressed through a condition in the interests of safety and the appearance of the development. I agree that the suggested condition concerning the guttering arrangement to the 2.5 storey elements would be reasonable to achieve an improvement in the appearance of the development. Given the current use of part of the site as a garage and in the light of the findings of the Site Appraisal, I agree that a condition concerning contamination and remediation is necessary. I have worded the conditions to accord with the advice in Circular 11/95, *The Use of Conditions in Planning Permissions*.
23. The bat survey and bat emergence survey identified the need for a licence before work which could affect bats is carried out. In those circumstances, I consider that a condition requiring a further protected species survey would not be necessary. No issue has been taken with the layout shown on the hard landscape plan so that the suggested conditions concerning a turning area and gates would be unreasonable. It was agreed at the Inquiry that details of site levels, cycle shelters and bin stores have now been provided so that those suggested conditions are no longer required. The plans do not suggest a need for passive stack ventilation and, in any event, if any works were such as to materially alter the appearance of the development, normal planning controls would apply. A condition on this matter would thus also be unnecessary.
24. The planning obligation has been duly signed and completed. The number of affordable units within the development would be in accordance with Local Plan and Replacement Local Plan policies, as well as the general thrust of PPS 3. The obligation also places age limits on the occupation of the apartments and provides for contributions in relation to health care and integrated transport measures associated with the development. It is directly related to the proposed development and addresses matters which

make the development acceptable in planning terms so that it carries significant weight.

### **Conclusions**

25. In terms of its effect on the character and appearance of the surrounding area, I have found that the proposal would take up the principle opportunities offered by the redevelopment of the appeal site. Whilst the 2.5 storey elements have attracted particular criticism, they form an integral part of a well-considered design which would add to the quality of Selby Lane and this part of Keyworth. Although there would be some loss of privacy, the development would not have an unacceptably adverse effect on the amenity of existing residents and would be beneficial in terms of the removal of the garage, notwithstanding the intensive level of use proposed.
26. Whilst I note the various references to the East Leake scheme, I consider that the particular characteristics of the appeal site and its situation within Keyworth mean that comparisons between the two developments are of limited value. I have determined this appeal on its own merits.
27. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

*K.A. Ellison*

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Johnathan Owen of Counsel, instructed by Rushcliffe Borough Council

He called:

Mr David Tyldesley MIEEM, FRTPI, FRSA David Tyldesley and Associates

FOR THE APPELLANT:

Mr John Edmond Solicitor, Marrons Solicitors

He called:

Mr John Morfey BA(Hons), Dip Arch RIBA Stephen George and Partners

Mr John Coleman DipTP, MRTPI William Davis Ltd

INTERESTED PERSONS:

Councillor Sam Boote, Member, Rushcliffe Borough Council

Mr Richard Allen, local resident No 5 Selby Lane

Councillor Debbie Boote Member, Keyworth South Ward, Rushcliffe Borough Council & Keyworth Parish Council

Dr G Stephan Green, representing himself and some local residents 16 Rannock Gardens

Mr Stephen Wright owner, Wrights Garage

## DOCUMENTS SUBMITTED AT THE INQUIRY

Document	1	Agreement under S106 of the Town and Country Planning Act 1990 relating to land at Selby Lane, Keyworth
Document	2	Design at Appeal, Commission for Architecture and the Built Environment (CABE)
Document	3	Space Between Buildings, Rushcliffe Borough Council
Document	4	Bundle of photographs showing examples of developments in Keyworth and other villages
Document	5	Memo to John Coleman 1/10/2007 concerning tree heights
Document	6	Plan showing boundary of Keyworth conservation area
Document	7	Photographs of Selby Lane from Mr Allen
Document	8	Bundle of documents from Dr Green
Document	9	Statement, documents and photographs from Mr Wright

## APPLICATION PLANS

Plan	A1	7859 P01	Ground floor plan
Plan	A2	7859 P02	First floor plan
Plan	A3	7859 P03	Second floor plan
Plan	A4	7859 P04	Elevations (amended version, 2 March 2007)
Plan	A5	7859 P05	Elevations
Plan	A6	7859 P06	Elevations
Plan	A7	7859 P07	Buggy store
Plan	A8	7859 P08	Elevations
Plan	A9	7859 P09	Sections
Plan	A10	7859 P010	Photomontage View 2 east
Plan	A11	7859 P011	Photomontage View 1 west
Plan	A12	7859 P012	Location Plan
Plan	A13	7859 P014	Proposed site plan
Plan	A14	7859 P015	Section B-B
Plan	A15	06.678.001A	Hard landscape proposals
Plan	A16	06.678.002A	Soft landscape proposals Sheet 1
Plan	A17	06.678.003A	Soft landscape proposals Sheet 2
Plan	A18	unreferenced	Photomontage submitted 18/1/07
Plan	A19	unreferenced	Photomontage submitted 18/1/07