

Appeal Decision

Site visit made on 28 December 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 31 January 2017

Appeal Ref: APP/R3705/W/16/3159366

Duncroft, Ash Lane, No Mans Heath B79 0PD

- 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 Ms Barney against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2016/0351, dated 15 June 2016, was refused by notice dated 27 July 2016.
 - The development proposed is the construction of a single dwelling and associated infrastructure on a parcel of land to the east of Duncroft.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refused permission for 4 reasons. However, it has indicated that following the removal of trees within the site there are now three main issues, which relate to the first 3 reasons for refusal. The main issues in the appeal are based on these. The Appellant's proof referred to Saved Policy HSG3 of the North Warwickshire Local Plan (NWLP) 2006, which was not mentioned in the Council's reasons for refusal. I have taken this and other relevant Policies into account in my decision.

Main Issues

3. The main issues are:
 - (a) Whether, having particular regard to its level of accessibility to jobs and services, the proposal would be a suitable form of development in this rural area;
 - (b) The effect of the proposal on highway safety; and
 - (c) The effect of the proposal on the living conditions of occupiers of Duncroft.

Reasons

Would the proposal be a suitable form of development in this rural area?

4. The appeal site is located in the small rural settlement of No Mans Heath, about 7 miles from Tamworth.
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5. Due to its central location in No Mans Heath, the proposed dwelling would not be isolated from the rest of the settlement. It would also not have any material effect on the character or appearance of the surrounding countryside. However, this does not mean that the proposed dwelling would not be isolated in terms of its accessibility to a sufficient range of jobs and services. In this regard the range of services and job opportunities which has been brought to my attention in No Mans Heath itself is very limited, lacking for example any substantial convenience shopping provision and many other day to day services.
6. Paragraph 55 of the National Planning Policy Framework (the 'Framework') acknowledges that in some cases development in one village may support services in a village nearby. The Planning Practice Guidance (PPG) confirms that all settlements can play a role in delivering sustainable development in rural areas¹. However, little substantive information has been provided by the Appellant about the pattern and location of services and employment in the surrounding area. Public transport provision serving No Mans Heath also appears to be limited.
7. Given the distance between No Mans Heath and other settlements occupiers of the proposed development are likely to rely heavily on the private car to access many types of jobs and day-to-day services. As stated by the Appellant, the Framework allows there to be some flexibility for journeys to be made by car in rural areas. However, this must be balanced against the core planning principles of the Framework which include to '*...actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling...*'².
8. Furthermore, Policy NW2 of the North Warwickshire Local Plan: Core Strategy (NWLPCS) and Saved Policy HSG3 of the NWLP set strict limitations on the type of development which may be permitted in settlements such as No Mans Heath. As the proposal would not be for agriculture or forestry, and there is no convincing evidence that it would require a rural location or provide affordable housing to meet local needs, it would conflict with these Policies. Given its status as part of a recent development plan, adopted since the publication of the Framework, Policy NW2 carries substantial weight in my decision.
9. I note that the site in Willoughby on the Wolds, subject to the appeal decision referred to by Appellant, is outside the central area of a village. In this respect it contrasts to the appeal site. However, it is not clear from the evidence before me that the circumstances concerning that proposal otherwise replicated those relating to the current appeal. I have in any event considered the appeal proposal as I must on its own merits in the light of the relevant policies and other circumstances which apply to it.
10. I conclude that, having regard to its limited level of accessibility to jobs and services, the proposal would not be a suitable form of development in this rural area.

Highway safety

11. Ash Lane is an informal and mostly narrow access road used by vehicular traffic and pedestrians which serves several dwellings between the B5493 and Church

¹ Paragraph: 001 Reference ID: 50-001-20160519

² Paragraph 17 of the Framework, bullet point 11

Lane. Whilst part of the Lane is hard surfaced, other areas have a mixture of concrete, chippings and soft surfacing.

12. At the point that Ash Lane enters onto it, the B5493 has a 40 mile per hour speed limit. Warwickshire County Council, in its role as highway authority, has advised that to comply with nationally published standards³ it would be necessary, from a point which is 2.4 metres back from the carriageway of the main road, to see on-coming traffic for 120 metres in both directions. It has also identified that the actual visibility splays are about 18 metres (looking left when moving out of the junction) and 13 metres (looking right). Whilst on the basis of my site visit I consider the leftward splay to be slightly more than 18 metres, it is not substantially so. Although the standards referred to by the highway authority relate to trunk and other major roads, I consider that the visibility at the junction of Ash Lane and the B5493 is materially deficient.
13. At the access of Ash Lane onto Church Lane, the highway authority has identified that the visibility splays from 2.4 metres from the carriageway are less than 8 metres looking left and less than 13 metres looking right. These figures appear to me to be broadly accurate and fall substantially short of the nationally recommended guideline of 43 metres for an access onto a road such as Church Lane with a 30 mile per hour speed limit⁴.
14. Ash Lane is fairly wide towards its northern end and contains some space for vehicles to pass each other. However, it is not formally laid out or marked out to modern engineering standards. As a result, and having regard to the limited visibility which exists, there is a risk of conflict between vehicles moving out of Ash Lane onto the B5493 and those entering it from that road. A similar risk exists at the 'bell-end' access onto Church Lane, near to which Ash lane rapidly narrows.
15. As stated by the Appellant the increase in the numbers of vehicles using Ash Lane that would result from the appeal proposal would be small in proportion to the numbers which are likely to currently use the Lane. It would, however, be material. It is also not clear that any condition on a planning permission could reasonably address the issues outlined above, particularly as the restrictions to visibility at both ends of Ash Lane are within neighbouring properties.
16. Due to the width of the appeal site fronting onto Ash Lane, it would be possible to design a driveway and access which would allow for vehicles to safely manoeuvre into and out of it from the Lane. Sufficient parking provision could also be laid out within the site. However, these points and the maintenance arrangements for Ash Lane do not outweigh the matters set out above.
17. For the reasons identified above the appeal proposal would cause substantial harm to highway safety, and would conflict with relevant provisions of Policy NW10 of the NWLPCS, Policies TPT3 and ENV14 of the NWLP and the Framework.

Living conditions

18. The Council has identified, and the Appellant has not refuted, that the proposed dwelling would be about 8.5 metres from the side elevation of the existing house at 'Duncroft', the ground floor of which has several windows facing

³ Design Manual for Roads and Bridges (DMRB) TD 9/93 – table 3

⁴ 'Manual for Streets', Communities and Local Government and Department for Transport, 2007 Table 7.1

towards the appeal site. Whilst not all of these serve habitable rooms those which are close to the rear of the existing dwelling serve a dining/kitchen area. Due to limitations on the outlook which is available to the rear, caused by the proximity of the property boundary, this area relies to some extent on the appeal site to provide an adequate outlook.

19. The proposed dwelling could be designed to avoid any windows being located in its side elevation facing towards Duncroft, and landscaping could be provided along the boundary of the area which would be retained as garden for the existing house. As a result, the proposal need not affect the privacy of occupiers of Duncroft. The proposed dwelling would also not affect the good outlook which is available from ground and first floor windows at the front of Duncroft, and its effects on outlook and lighting within 'Duncroft' could also be reduced by limiting its height.
20. The proposed dwelling would, however, even if designed as a low lying bungalow, be likely to restrict the outlook and at times sunlight to some extent from the side facing windows in Duncroft. As a result, it would cause limited harm to the living conditions of the occupiers of Duncroft and a degree of conflict with Policy NW10 (bullet point 9) of the NWLPCS. Whilst some nearby dwellings have been extended and the side garden of Duncroft is larger than that of many nearby dwellings, these points would not neutralise this harm.

Other Considerations

21. The proposal would contribute one dwelling to the supply of housing in the area. Given the Government's aim of boosting significantly the supply of housing, this would constitute a notable benefit. However, there is little evidence before me to suggest that the housing land supply situation in the area justifies allowing the appeal proposal having regard to my earlier findings.

Conclusions

22. I have found that, having regard to its limited level of accessibility to jobs and services, the proposal would not be a suitable form of development in this rural area. I have also found that the proposal would cause substantial harm to highway safety and limited harm to the living conditions of the occupiers of Duncroft.
23. Whilst the proposal would deliver the benefit of providing one additional dwelling, no other substantive benefits have been identified. I consider that the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits of doing so. Whilst the proposed new dwelling would contribute to the economic and social dimensions of sustainable development, due to its high level of reliance on the private car to access jobs and services the proposal would not constitute sustainable development as a whole.
24. For these reasons, I dismiss the appeal.

Jonathan Clarke

INSPECTOR