
Appeal Decision

Site visit made on 27 November 2017

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 11 January 2018

Appeal Ref: APP/X3025/W/17/3180777

19 Bransdale Avenue, Forest Town, Mansfield, Nottinghamshire NG19 0LZ

- 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 & Mrs A Gascoyne against the decision of Mansfield District Council.
 - The application Ref 2016/0230/NT, dated 21 April 2016, was refused by notice dated 5 May 2017.
 - The development proposed is residential development.
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Decision

1. The appeal is allowed and planning permission is granted for residential development at 19 Bransdale Avenue, Forest Town, Mansfield, Nottinghamshire NG19 0LZ, in accordance with the terms of application Ref: 2016/0230/NT dated 21 April 2016, and subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The description of development set out in the Council's Decision Notice differs from that on the application and appeal forms and reproduced in the banner heading above, in terms of the number of dwellings applied for. Although accompanied by an indicative layout showing six dwellings on the site, the application was submitted in outline with all matters reserved for subsequent approval. I have therefore dealt with the appeal on that basis.

Main Issues

3. The main issues in this case are:
 1. The effect of the proposal on highway and pedestrian safety.
 2. The effect of the proposal on the living conditions of neighbouring residents with particular regard to noise and disturbance from increased traffic movements.

Reasons

4. The site comprises a detached house set in a large, well-established garden and incorporates a shared private driveway off Bransdale Avenue. The site lies within a residential area comprising modern, predominantly detached houses set out in a generally regular layout with properties fronting the spine roads or cul-de-sacs off them. It is bordered on three sides by residential development and on the fourth by part of an extensive area of woodland.

5. The indicative layout shows six detached dwellings on the site following the demolition of the existing property. The layout and density of the development, and the style of property indicated, appears to be similar to that of the surrounding area. The Council has raised no objection to the proposal in terms of its impact on the character or appearance of the area, the privacy of neighbouring residents or on trees or ecology. From all that I have seen, I have no reason to disagree. The main area of dispute between the parties centres on the access arrangements and the impact of the development on the living conditions of existing residents in terms of noise and disturbance.

The effect of the proposal on highway and pedestrian safety.

6. The existing access off Bransdale Avenue, which presently serves 5 properties including No 19, is 4.46m wide over its full length and has no footpaths. This falls short of the Highway Design Guide standard of 4.8m for the first 5m. 4.8m would allow two vehicles to pass each other at the access and allow manoeuvring without blocking the public highway or affecting the free flow and safety of other vehicles.
7. There is no reason to suggest that the access is currently unsafe. The estate has an open plan layout and the front gardens of the corner properties, Nos 15 and 23, are open and unenclosed. Visibility at the junction of the driveway with Bransdale Avenue, is good in both directions and indeed the indicative plans show that the junction has 2.4m x 59m emerging visibility splays. On that basis emerging vehicles and those entering the driveway have a clear view of any potential conflict. Likewise any pedestrians also have a good view of vehicles wishing to turn into and out of the driveway.
8. The proposal would result in an increase in vehicles and pedestrians using the access. Nevertheless if the size of the development were limited to that shown on the indicative layout any increase in traffic movement would be unlikely to be significant. I note the presence of a primary school nearby but nevertheless, there is no convincing evidence to suggest that traffic volume or speed on Bransdale Avenue is particularly high. Therefore, even in the event of a vehicle having to wait on the public highway this is likely to be for a short period and thereby unlikely to result in any significant congestion or danger. Given that visibility at the junction is good it seems to me unlikely that a vehicle would need to reverse onto Bransdale Avenue but even if that were the case there is nothing before me to suggest that such a manoeuvre would be detrimental to highway safety. I note that a number of existing properties have direct vehicular access onto/off Bransdale Avenue but there is no evidence before me to suggest that manoeuvring in the highway causes any significant traffic congestion or danger.
9. The Highway Authority has indicated that where the first 5m of a private driveway is bounded by a wall, fence or other boundary treatment on one side the access should be wider than the 4.8m minimum. In this instance, the first 5m of the driveway is bordered by front gardens which are predominantly hardsurfaced and are not enclosed. Accordingly the wider access is not necessary in this instance. I acknowledge the Council's concerns that the situation could change in the future. However, given that it would not be in the residents' best interests to erect boundary treatment that obscures visibility, this matter carries limited weight.

10. No objection to the width of the remaining section of the driveway, beyond the first 5m, has been raised by the Highway Authority. Furthermore, the road width and layout beyond its existing point would be determined at the reserved matters stage. I acknowledge that the proposal would result in an increase in both pedestrians and vehicles sharing the existing driveway. However, shared surfaces are not uncommon in modern residential developments. Given the potentially limited scale of the development, the likely low speed of vehicles using the driveway and the fact that the shortfall in width is very limited, I am satisfied that the increase in the use of the shared surface in itself would be acceptable in terms of highway and pedestrian safety. Whilst I acknowledge existing residents' concerns over potential damage to property as a result of vehicles over-running the highway, there is no reason to suggest that drivers would behave irresponsibly.
11. Refuse bins from the five existing properties are currently placed on the highway at the entrance to the private driveway for collection. I acknowledge concerns that an increase in bins at this point from five additional dwellings could be a danger to pedestrian safety as well as being unsightly to occupiers of neighbouring properties. However, the application documents indicate that a layout could ensure that service vehicle could enter and turn around within the site and leave in a forward gear. As an alternative, the appellant suggests that bins could be stored for collection within the site adjacent to plot 1, some 21m from the highway, well within the maximum recommended carry distance of 25m¹. Accordingly it seems to me that there are alternatives to waste collections other than all bins having to be placed on Bransdale Avenue. This is a matter which could be dealt with by way of a planning condition.
12. Accordingly I am satisfied that for the above reasons, the proposal would have regard to the needs and safety of all modes of transport including walking, would not have detrimental effect on the surrounding highway network, and would incorporate provision for safe vehicle access, egress and internal movement. As such the proposal would be in accordance with Saved Policy M16 of the Mansfield District Local Plan (1998) (Local Plan).

Living conditions

13. The proposal would result in more comings and goings in front of the existing four properties, with an attendant degree of noise and disturbance. Nevertheless, the houses are set back from the driveway and private gardens are located to the rear. There is nothing before me to suggest that the houses, which are modern, are not well insulated against noise. I acknowledge that during the construction phase heavier vehicles would use the driveway and there could be some additional noise associated with building operations. This is common to most building developments and is temporary. Conditions can be imposed which would restrict the hours of working and require the submission and approval of a 'construction method statement' to ensure that construction was effectively managed to keep any disturbance to a minimum.
14. On that basis, whilst I acknowledge that there would be more activity in terms of comings and goings, the proposal would not result in any significant harm to the living conditions of the existing occupiers. In that respect the proposal would comply with Policy H2 of the Local Plan which requires new housing

¹ Department of Transport Manual for Streets Paragraph 6.8.9

development to integrate with surrounding land uses and not lead to a reduction in residential amenity for adjacent occupiers.

Other Matters

15. The driveway is privately owned, I understand, by the occupiers of Nos 15, 17, 21 and 23 who are responsible for its maintenance. I acknowledge the residents' objection to any further use of the driveway. However, this is a private matter. Allowing the application does not prejudice or negate any legal rights the landowners have. Accordingly, in itself, the matter does not have a bearing on my decision.
16. Concern has been expressed about the outline nature of the proposal. Whilst I acknowledge that outline applications provide less detail and therefore less certainty than a full application, details received at the reserved matters stage would be the subject of public consultation. Nevertheless for reasons set out below, I consider it necessary to restrict the development to a maximum of six units.

Conditions and Conclusion

17. The Council has suggested a number of conditions in the event of the appeal being allowed. I have considered those conditions in the light of advice in the Planning Practice Guidance. I have changed or amalgamated the wording of the Council's suggested conditions where necessary.
18. In the interest of proper planning I have imposed the standard time limits for the approval of the reserved matters and commencement of the development. I have specified the approved plans, in terms of the location plan only, given that the layout plan is for indicative purposes only. Notwithstanding that, a permission unrestricted in terms of numbers of units and thereby traffic generation, could give rise to significant objection in terms of highway safety as a result of the shortfall in the width of the access. As such it is reasonable and necessary, in the interests of highway safety and the amenity of local residents, and to provide certainty, to limit the maximum number of dwellings on the site to 6 as shown on the indicative layout. I have taken into account the comments of both main parties in this respect.
19. In order to protect the living conditions of adjoining residents it is necessary to impose a condition requiring approval of existing ground levels and finished floor levels; restricting hours of construction and the delivery of materials; and requiring the submission and agreement of a construction management plan during the demolition and construction phases.
20. To conserve and enhance biodiversity in the area and to mitigate against the loss of trees within the site, a condition requiring the provision of bird boxes and bat access within the site is reasonable and necessary.
21. The Council has also suggested a condition requiring provision of standing space for bins adjacent to the highway to be used only on collection days. It seems to me that this would be unreasonable and difficult to enforce given that bins are moved by the waste collection team and are often put out the evening before collection as personal working patterns dictate. As such the condition would not meet the tests set out in the PPG. However, in the interests of the living conditions of existing and future occupiers, agreement of a scheme for the collection of the bins is both reasonable and necessary.

22. For the reasons set out above, and taking into account all other matters raised, the appeal is allowed and planning permission is granted subject to the above conditions.

S Ashworth

INSPECTOR

SCHEDULE

- 1) 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.
- 2) Details of the access, 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.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 15/2023/LP Location Plan.
- 4) The maximum number of dwellings on the site shall not exceed six.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, 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.
- 6) Demolition or construction works, and the delivery of materials to the site, shall take place only between hours of 08.00-17.00 on Mondays-Fridays, 08.00-12.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No development shall take place, including any works of demolition, until a construction management plan has been submitted to, and approved in writing by the local planning authority. The plan shall provide for:
 - i) Wheel washing facilities for construction vehicles;
 - ii) Measures to control the emission of dust and dirt;
 - iii) Measures to control noise and vibration.The approved construction management plan shall be adhered to throughout the demolition and construction period of the development.
- 8) The development hereby permitted shall not commence until a scheme for the provision of bird boxes and bat access within the proposed development has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 9) Prior to the commencement of development on site details of the proposed bin collection arrangements shall be submitted to and agreed in

writing by the local planning authority. The development shall be carried out in accordance with the agreed details.