
Appeal Decision

Site visit made on 27 August 2019

by S D Castle BSC(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2020

Appeal Ref: APP/R3705/W/19/3233095

5 Willows Lane, Grendon CV9 2QG

- 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 Daniel Swift against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2018/0216, dated 28 March 2018, was refused by notice dated 15 January 2019.
 - The development proposed is removal of pond, construction of 3 bed house with double garage and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the safe and efficient operation of the highway;
 - The effect of the proposed development, with particular regard to the removal of the pond, on the character, appearance and environmental quality of the area.

Reasons

Policy Context

3. The development plan includes the North Warwickshire Core Strategy adopted 2014 (CS) and saved policies in the North Warwickshire Local Plan 2006 (LP).
4. I understand that the Emerging Local Plan (ELP), the North Warwickshire Local Plan Submission Version (March 2018), has not yet been found sound. I have only been provided with limited details regarding to what extent there are unresolved objections to any policies. Consequently, I am not able to attach significant weight to the policies within the ELP.
5. The Council refers to recent appeal decisions (Daw Mill¹ and Ansley²) establishing that CS Policy NW2 (Settlement Hierarchy) is out-of-date in so far as it relies upon development boundaries. I concur that the restrictive nature of

¹APP/R3705/W/16/3149827

²APP/R3705/W/17/3189584

Policy NW2 means only limited weight can be attributed to the policy. Policy NW2 is, however, consistent with the National Planning Policy Framework (the Framework) in so far as it seeks to direct residential development towards more sustainable settlements, away from isolated rural locations which have limited access to services and facilities. There is no substantive evidence before me, however, to indicate that the proposal conflicts with these aspects of the policy.

6. I find LP Policy ENV14 and CS Policy NW10 broadly consistent with the Framework (including para 108) in so far as they seek to ensure safe and suitable access to the site can be achieved for all users. I also find CS Policy NW12 broadly consistent with the Framework (including section 12) in so far as it requires development to demonstrate a high quality of design that positively improves a settlement's character, appearance and environmental quality. I give these policies substantial weight.
7. I regard the adopted development plan policies listed within the refusal reasons, along with CS Policy NW2, as the most important policies for determining the application. Taken as a whole, I do not consider them out-of-date for the purposes of this decision.

Highways

8. The site is located on the northern side of Willows Lane, a private road accessed off the eastern side of Spon Lane between the dwellings at 20 and 20a Spon Lane. Willows Lane serves 7 dwellings (including the garage to No 20a) located to the north and east of the private road. A dropped kerb crossover on the eastern side of Spon Lane provides vehicular access to Willows Lane. This dropped kerb extends to the front of No 20 and, at the time of my site visit³, two cars were parked within the front driveway of No 20. The boundary between Willows Lane and No 20 predominantly consists of a timber post and rail fence, backed by a timber closed boarded fence. The boundary between Willows Lane and No 20a includes a mix of brick wall and metal railings.
9. Spon Lane, in close vicinity to the site, is residential in character, with housing and pavements located on both sides. Most dwellings have dropped kerb crossovers providing access to parking areas to the front of dwellings. There are no signed restrictions on parking in the public highway. A long section of dropped kerb crossover is located on the western side of Spon Lane, to the front of Church Hall Gardens, opposite the entrance to Willows Lane. At the southern end of Spon Lane, there is a turning head and no through road to the adjacent Watling Street (A5). A shop, bus stop, post-box and public bench are located adjacent to the turning head.
10. The Council's first refusal reason raises concerns regarding the safety and suitability of the dropped kerb crossover at the junction of Willows Lane and Spon Lane given the additional traffic that would be generated by the proposal. There is no currently adopted design guidance before me that requires a certain number of dwellings (or higher) to be served by a bellmouth access. Manual for Streets (MfS) is not prescriptive in this regard either. Nevertheless, it is contended by the Council that a bellmouth access is required to provide: pedestrians safe access into and out of the site in an area of conflict; people

³ 1330h to 1500h Tuesday 27 August 2019

- with mobility issues access to the site; and to ensure vehicles would not park in close proximity to the access, making swept paths easier so there would be less damage to the public highway.
11. The submitted swept path analysis shows that a large refuse vehicle can currently access and egress Willows Lane, in a forward gear, without over-running kerbs. Such manoeuvres, however, are not possible when there is parking on Spon Lane within close proximity to the junction with Willows Lane. Images provided by the Council show such parking and evidence of vehicles over-running of the pavement whilst accessing or egressing Willows Lane. Such vehicular manoeuvres inevitably result in conflict with non-motorised users of the pavement.
 12. The existing dropped kerb crossover at the junction of Spon Lane and Willows Lane provides pedestrians with the right of way, requiring no stopping. Intervisibility between vehicles on Willows Lane and pedestrians approaching the junction with Spon Lane from the south west is, however, limited by the boundary fencing and vehicles parked in the driveway to the front of No 20. Whilst the initial part of Willows Lane is of sufficient width to allow for two cars to pass, such passing encourages vehicles to infringe pedestrian visibility splays.
 13. The proposed dwelling is located approximately 120m from the junction with Spon Lane, but Willows Lane does not provide safety features to encourage low speeds or use by non-motorised users. There is no lighting along Willows Lane and the high boundary treatments either side of the access result in non-motorised users having no clearly defined space protected from vehicles in an area of potential traffic conflict. The lack of kerbs or other appropriate surfacing at the Willows Lane junction and along Willow Lane presents difficulties for blind or partially-sighted people who rely on such features to find their way around.
 14. Given the existing layout, surfacing and boundary treatments, the additional traffic from the development would inevitably increase the frequency of conflict between vehicles and non-motorised users along Willows Lane and at the Willows Lane junction. When larger vehicles are considered, the potential for conflict detrimental to highway safety is significantly increased given the constrained dimensions of the access and lack of parking restrictions adjacent to the access.
 15. I note the Council's concerns that the proposal will exacerbate damage to the highway as a result of larger vehicles 'dry steering' and overrunning kerbs whilst accessing Willows Lane. I find the evidence before me regarding additional damage to the highway inconclusive. The submissions before me indicate that, whilst larger refuse vehicles can access and egress Willows Lane in a forward gear using the existing turning head, smaller refuse vehicles have previously been used to prevent damage. I am not persuaded that the additional dwelling proposed would result in additional trips of refuse vehicles along Willows Lane or additional damage to the highway.
 16. I acknowledge that the personal injury accident data records within the vicinity of the development site indicate that no accidents have been recorded since 1990. The recently completed developments of housing off Willows Lane, and other recent housing development to the north of the site, represent a recent change in circumstances and will have increased traffic movements in the

vicinity of the Willows Lane junction. Whilst additional traffic numbers from the proposed development would be light, I find they would be significant given the concerns set out above regarding the safety of Willows Lane for all users, the potential for conflict at the proposed crossover, and the evidence of existing unsafe vehicular manoeuvres. The cumulative impact of the additional traffic would be unacceptably detrimental to highway safety.

17. For the above reasons, the development would result in an intensification of the use of the access, increasing problems of danger or intimidation, and harming the safety and efficient functioning of the local road network contrary to LP Policy ENV14. It would not provide for appropriate vehicle access contrary to CS Policy NW10 and would not represent an inclusive design contrary to CS Strategic Objective 6. Furthermore, I find the proposal would fail to provide safe access, including for walking and cycling to the surrounding area without detriment to the safety of the existing frontage development contrary to ELP Policies LP29 and LP32. The development would increase the scope for conflicts between non-motorised users and vehicles, whilst failing to address access for people with disabilities, representing an unacceptable impact on highway safety by failing to ensure safe and suitable access to the site can be achieved for all users contrary to the provisions of the Framework, including paragraphs 108 and 110.

Removal of the pond

18. The pond forms part of an existing private garden. It is not prominent in public views and I have no substantive evidence before me to suggest that it forms an important feature of the landscape character of the area. Whilst the pond can be viewed from a limited number of private dwellings, the proposed dwelling would respect the existing character of the area in terms of its pitched roof design, dormer windows and finishing materials. It would be appropriately spaced in relation to surrounding dwellings, including sufficient areas of landscaping and retention of trees.
19. The submitted Great Crested Newt Report found the pond unsuitable for breeding great crested newts and only common amphibians were recorded. I have no substantive evidence before me to indicate that the development would have a detrimental impact on bio-diversity.
20. As such, the development would not result in harm to the character, appearance or environmental quality of the area and would be in accordance with CS Policy NW12 and Section 12 of the Framework which, taken together, require the creation of high quality places.

Other Matters

21. I understand the site is adjacent to the development boundary of Baddesley with Grendon, an identified Local Service Centre as set out within CS Policy NW2 (Settlement Hierarchy). Policy NW2 advises that development will be permitted in or adjacent to development boundaries of Local Service Villages where it is considered to be appropriate to its place in the settlement hierarchy. The Council does not object to the principle of the development in this location and, given the surrounding residential development and local access to services, I have no reason to disagree.

22. The concerns of interested parties regarding overbearing, loss of light and privacy are noted. However, the separation distances between the proposed dwelling and surrounding dwellings would be sufficient to ensure appropriate living conditions in these regards for adjoining occupiers. There is no substantive evidence before me to indicate that development would result in surface water drainage issues or would result in increased risk of flooding.
23. The Council's evidence refers to their Annual Monitoring Report showing a 6.39 years supply of housing land as at 31 March 2019. There is no substantive evidence before me that persuades me to take a different view on this matter.

Personal circumstances and the planning balance

24. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations (including the Framework) indicate otherwise.
25. I have carefully considered the objections of interested parties with regards to the potential impact of the development on the health of a local resident. In the light of this evidence, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
26. Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health conditions of the individual concerned. Particular concerns have been raised regarding the impact of dust, during and post-construction, exacerbating the local resident's medical condition. Concerns have also been expressed regarding the impact of noise, disturbance and vehicular fumes/movements on the health and living conditions of the local resident. I have considered the health documentation relating to the local resident and I agree that that the proposed development, primarily during construction, would represent a risk to the resident's health and enjoyment of property. These are personal circumstances to which I afford weight in opposition to the appeal.
27. I recognise that construction vehicles would pass in close proximity to the main entrance, windows (serving habitable rooms), rear conservatory, and outdoor amenity space, of the dwelling of the affected local resident. A high closed boarded fence encloses much of the boundary of that dwelling, but the rear garden does not contain any substantial trees or tall vegetation that might act as a barrier to the movement of dust or particles. It is noted that the local resident has to constantly undertake health monitoring at home and is encouraged to undertake healthy physical and mental pursuits such as growing fruit and vegetables and relaxing outdoors. As such, it may be necessary for the resident to alter patterns of behaviour when construction is particularly busy or when the prevailing south-westerly wind is in a less favourable direction. Such changes may include staying in-doors with windows shut to prevent the ingress of dust and to reduce disturbance by noise / vehicular movements.
28. The Council's Environmental Health Officer has recommended a Construction Environmental Management Plan, including a dust management plan, is

secured by condition. Appropriate management of construction would significantly mitigate the risks to the health of the resident during construction.

29. Following construction, I do not have any substantive evidence before me to indicate that the additional vehicular movements in terms of levels of fumes or disturbance, given the existing urban location, would cumulatively, or otherwise, have an unacceptable impact on the health of the local resident. I do note that the mobility of the local resident is limited and therefore the detrimental impact on highway safety identified above would negatively impact on the affected local resident and this weighs against the appeal. Overall, given appropriate mitigation could be secured, the evidence does not substantively indicate that the development would give rise to more than limited risk of harm to the health of the local resident and I, therefore, give limited weight to this impact in the overall balance.
30. In weighing the personal circumstances in the balance, this has to be considered against the benefits of the proposal. Such benefits would include its contribution towards boosting housing supply at an identified Local Service Centre where the distances to services and facilities would limit the need to travel. I acknowledge that housing targets should not be considered as a cap on the delivery of housing and the importance of delivering housing on suitable windfall sites. Being for one property, however, it would only make a very limited contribution and this significantly limits the weight I attach to this consideration. Social and economic benefits derived from jobs provided through construction and through the support future occupiers would give to services and facilities in the area further weigh in favour of the proposed development.
31. The development would increase the scope for conflicts between non-motorised users and vehicles, whilst failing to address access for people with disabilities, representing an unacceptable impact on highway safety by failing to ensure safe and suitable access to the site can be achieved for all users. I give substantial weight to this conflict with paragraphs 108 and 110 of the Framework. Whilst I have not found the policies which are most important for determining the application out-of-date, even if I were to do so, the identified harm would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
32. I give limited weight to the identified conflict with ELP Policies LP29 and LP32. Substantial weight is, however, given to the identified conflict with adopted development plan policies by virtue of the development's unacceptable detrimental impact on the safe, efficient and inclusive functioning of the access and local highway network.
33. Overall, there are no material considerations, either individually or in combination, of sufficient weight to outweigh the identified conflict with the development plan, nor do they indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

34. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR