

Appeal Decision

Site visit made on 8 September 2020

by Matthew Birkinshaw BA(Hons) MSc MRTPI

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

Decision date: 1 December 2020

Appeal Ref: APP/A3010/W/20/3254868

Land west of Queen Elizabeth Crescent, Rhodesia, Worksop, S80 3HT

- 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 Mr Matt Jackson (Gleeson Regeneration Ltd) against the decision of Bassetlaw District Council.
 - The application Ref 19/00852/FUL, dated 14 June 2019, was refused by notice dated 15 April 2020.
 - The development proposed is a residential development of 128no. 2, 3 and 4 bed dwellings and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of 127no. 2, 3 and 4 bed dwellings and ancillary works on land west of Queen Elizabeth Crescent, Rhodesia, Worksop, S80 3HT in accordance with the terms of the application, Ref 19/00852/FUL, dated 14 June 2019, subject to the conditions in the schedule at the end of this decision.

Procedural Matters

2. During the determination of the planning application the scheme was amended from the erection of 128 dwellings to 127. I have therefore referred to the revised description of development in my formal decision above.
3. At the appeal stage the appellant submitted a revised plan; Ref 19/2184/01 Revision JA. The revision includes a turning head proposed to the south-east corner of the site. As a relatively minor alteration, the addition of the turning head does not represent a significant change that would materially alter the nature of the scheme. Interested parties have also had the opportunity to comment on the change. As it would not prejudice the interests of any party, I have therefore determined the appeal based on plan Ref 19/2184/01 JA.

Main Issues

4. The main issues are:
 - The effect of the proposal on the safe and efficient operation of the highway network; and
 - The effect of the proposal on the provision of primary school education.
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Reasons

Highway Safety

5. In support of the planning application the appellant provided a Transport Assessment ('TA'). The scope of the TA was agreed with Nottinghamshire County Council ('NCC') prior to submission. Based on the scoping exercise the TA considered the impact of the proposed development on the A57/Sandy Lane/High Grounds Road roundabout. This was the only junction on the A57 that the scheme was forecast to have an impact on (defined as in excess of 30 two-way trips in a peak hour). Each arm of the roundabout was assessed.
6. Modelling in the TA demonstrates that the western approach to the roundabout (from the A57) is expected to be over capacity in 2024. However, the forecasts suggest that there would be minimal increases in queuing traffic as a direct result of the appeal scheme (an increase of 2 vehicles during the PM peak). In response to the submitted evidence the Highways Officer raised no concerns regarding the operation of the junction and no specific mitigation measures were identified as necessary. Improvements to the A57 and the High Grounds Road arms of the roundabout are to be funded by the Council's Community Infrastructure Levy ('CIL') charging schedule. The appellant confirms that the appeal scheme would be liable for CIL and would contribute accordingly.
7. The Sandy Lane Arm of the roundabout is excluded from the Council's list of infrastructure projects to be funded by CIL. NCC Highways Officers therefore requested that the TA specifically considered the impact on this arm of the roundabout. In response, the TA forecasts that the proposed development would generate roughly an additional 32 PCUs ('Passenger Car Units') during the AM and PM peak hours. Compared with baseline traffic flows this equates to an increase of 2.2%, which is not considered to represent a significant increase in traffic. Based on the evidence provided, the cumulative impact of development would therefore not be severe, and the scheme would not have a hazardous impact on the operation of junctions with the A57.
8. In refusing planning permission, the Council has referred to *The Bassetlaw Local Plan Transport Study Update*. It identifies the need for improvements to several junctions along the A57, including at Sandy Lane. But the primary objective of the Study is to ensure that transport infrastructure does not constrain Local Plan growth and that appropriate new provision is made where necessary. It is intended to underpin strategic decisions, not test the suitability of individual planning applications. This has been done through the submitted TA, which has been assessed by Highways Officers and confirms that the cumulative impact of the appeal scheme would not give rise to significant additional congestion that would undermine highway safety.
9. In considering the effect of the proposal I have also taken into account that it would increase traffic past the neighbouring children's centre and primary school and along Tylden Road. However, Highways Officers have not raised any fundamental concerns in either regard. The TA considers impacts on the Tylden Road/Shireoaks Road junction and states that it will continue to operate with spare capacity, concluding that the development will have only a negligible impact. There is no persuasive evidence before me to demonstrate that the local road network would be unable to accommodate the likely increase in vehicle movements or lead to any hazardous conflicts with pedestrians.

10. Likewise, I note that the primary access to the site would be from Cecil Close, which is a small cul-de-sac of semi-detached houses. However, Cecil Close is approximately 5.5m wide with footpaths on either side. The existing semi-detached houses also benefit from off-street car parking. As a result, there is nothing to suggest that the width of the road or the likelihood of parked cars would prejudice highway safety.
11. Following changes made to the layout during the planning application process, the scheme proposes a secondary access onto Mary Street. This would enable potential future occupants to access bus stops on Mable Street and Mary Street without travelling along the spine road to leave the appeal site. It would also allow for the potential future use of the site as a bus route. Providing a second access is therefore necessary in the interests of good design and promoting the use of more sustainable modes of transport.
12. Achieving an access onto Mary Street would require the development of land owned by the Council. Submitted in support of the appeal is a signed and dated planning obligation which, amongst other things, includes a financial contribution towards the construction of the proposed link. It is common ground between the main parties that the contribution is necessary to make the development acceptable in planning terms, is directly related to the scheme and is fairly and reasonably related in scale and kind. Combined with the use of a planning condition, the obligation ensures that the link can be delivered.
13. In summary therefore, I conclude that the proposal would not be detrimental to safe and efficient operation of the highway network. As a result, there is no conflict with Policy DM4 of the *Bassetlaw Core Strategy & Development Management Policies DPD* which, amongst other things, states that new development should not be to the detriment of highway safety. For the same reasons there is also no conflict with paragraph 109 of the National Planning Policy Framework ('the Framework'), which states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or, the residual cumulative impacts would be severe.

Education Provision

14. In response to the planning application, NCC advised that there would be insufficient capacity within local primary schools to accommodate the likely increase in pupil numbers generated by the appeal scheme. Funding to extend Haggonfields Primary School was therefore requested.
15. However, in June 2020, NCC confirmed that based on current data "*...there is a projected surplus of places in the Primary planning area and the impact of the development alone would not lead to a deficit in provision.*" The Council's written statement confirms that Haggonfields Primary School does have capacity, and that at this moment in time, no additional funding is required.
16. Based on the evidence provided I therefore conclude that the proposal would not undermine the provision of primary school education and no contributions are required. As such, there is no conflict with Policy DM11 of the *Bassetlaw Core Strategy & Development Management Policies DPD* which requires the provision or improvement of infrastructure required by a development to be secured by CIL, planning obligations or conditions. Nor is there any conflict with paragraph 94 of the Framework, which seeks to ensure that a sufficient choice of school places is available to meet the needs of communities.

Other Matters

17. No concerns have been raised by the Council concerning the impact of the proposal on the character and appearance of the area or the scale of development proposed, which would be commensurate to the size of Rhodesia and the level of services and facilities available. Potential future occupants would be able to access the primary school and local bus stops on foot, with larger retail, leisure and employment uses within cycling distance. Facilities therefore exist nearby to serve the occupants of the proposed development.
18. Likewise, no concerns have been raised by the Council concerning the principle of residential development, which is considered acceptable for the reasons set out in the Planning Officers Report. Based on the information provided, I find no reasons to disagree. Although the site is identified as a Locally Important Open Space and as part of a Green Gap in the emerging Local Plan, the document is only at draft stage. As the designations could change, I have not given them any significant weight in reaching my decision.
19. To the south of the appeal site is the Lady Lee Quarry Local Wildlife Site ('LWS'). The former quarry is designated for its botanical interest. In response to the planning application the Nottinghamshire Wildlife Trust confirmed that the neighbouring waterbody suffers from fluctuating water levels and has been known to dry out, which could have a negative impact on wildlife. The Wildlife Trust therefore confirms that the site may benefit from run-off from the proposed development, subject to certain criteria being met. These criteria, along with measures to mitigate the impacts of development on wildlife, can all be controlled through the use of planning conditions.
20. To the west of the appeal site is Rhodesia Bridleway 2. The existing boundary to the bridleway is a hedgerow, which is intended to be retained. New links through the site are proposed that will connect with the bridleway to promote walking and cycling. The proposed links will be within the appeal site, and their maintenance will form part of future management arrangements. Areas of open space will also be provided to the south-west and south-east corners of the site, providing space for informal recreation and a buffer to the LWS.
21. Some disruption may be caused to local residents during construction, especially from the coming and going of vehicles. However, this would only be temporary. Delivery times, working hours and working practices (such as wheel washing and delivery routes) could also be controlled by the use of a Management Plan to help mitigate the temporary impacts of construction. No substantive evidence has been provided to demonstrate that once built, any noise associated with the residential use of the site would be harmful to the living conditions of existing occupants.
22. Submitted at the appeal stage is a planning obligation which makes provision for 15% affordable housing and for the management and maintenance of on-site open space and drainage systems. It also includes financial contributions towards highways infrastructure, a travel plan review, libraries and ecological enhancements. A Statement, agreed between the Council and the appellant, sets out the need for each of the provisions.
23. The requirement for affordable housing, the management and maintenance of on-site open space and drainage systems, and contributions to libraries all form part of adopted development plan policies. Contributions towards the travel

plan and the secondary access are necessary to promote sustainable patterns of transport and good design. Contributions towards open space and ecological enhancements are also requirements of development plan policy and are needed to mitigate the impact of the proposals on the LWS. The information provided confirms that the planning obligations are necessary to make the development acceptable, are directly related to the development and are fairly and reasonably related in scale and kind.

24. Finally, matters relating to previous uses of the appeal site and the potential for land contamination can be adequately controlled through the use of a suitably worded planning condition, as suggested by the Council.

Conclusion and Conditions

25. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.
26. Aside from the standard time limit condition it is necessary to list the approved plans, as this provides certainty.
27. A joint statement has been provided by the appellant and the Council which confirms that a contribution towards the provision of a link between the appeal site and Mary Street is necessary to make the scheme acceptable in planning terms. For the reasons set out above, I agree. However, no mechanism has been proposed to ensure the provision of the link road or its timely implementation. A condition is therefore necessary requiring a scheme to be approved in writing by the Council prior to any development starting on site, including a programme for completion of the works. Both the main parties have been provided with opportunities to comment on the wording of the condition.
28. Minimising and mitigating the impacts of development on the living conditions of neighbouring residents, and on the environment, both necessitate the approval of a Construction and Environmental Management Plan ('CEMP'). Because the CEMP requires delivery and construction working hours to be approved, there is no need for a separate condition. Likewise, there is no need for a separation condition referring to drawing 3104/CMP/01, which is included in the list of approved plans. Rather than include a separate condition requiring wheel washing measures to be approved, I have also included this as part of the CEMP, as it directly relates to construction.
29. In order to provide a good standard of living accommodation for potential future occupants, and minimise the risk of flooding, conditions requiring site investigations and the approval of drainage details are necessary. Because the details relate to the construction phase their approval is required prior to the commencement of development. However, I have not included the Council's suggested additional wording for the drainage condition, as the specific means of drainage will be set out and approved as part of the submitted scheme. Ensuring that the development does not have a detrimental impact on archaeological remains also necessitates a pre-commencement condition requiring the approval of a programme of archaeological work. For clarity I have reworded the Council's suggested condition to confirm that development shall be carried out in accordance with the approved programme.

30. To mitigate the impacts of development and provide biodiversity enhancements, conditions are required to restrict site clearance works at certain times of the year and require the approval of measures such as bat and bird boxes. In the interests of the character and appearance of the area conditions are also required for the approval of hard and soft landscaping details and external facing materials. Although the Council has suggested that no development takes place until biodiversity enhancement and soft landscaping measures have been approved, no substantive reasons have been given. In line with other suggested conditions, I have therefore reworded the requirements to allow some initial construction work to commence.
31. In the interests of highway safety and good design conditions are required to specify that roads and footways must be completed prior to occupation, that management details for the proposed streets are approved and that access and parking areas are not bound in loose materials. In order to promote the use of more sustainable modes of transport, conditions requiring the approval of a travel plan and the provision of electric charging points are also necessary. Because management details, the travel plan and provision of charging points all relate to the occupation of the site, their approval is not necessary prior to the commencement of development. I have therefore reworded the Council's suggested conditions accordingly, and for clarity and precision, stated that the travel plan relates to the site. A condition requiring the approval of bin collection points is also necessary in the interests of highway and pedestrian safety, but I have amended the wording to require the approval of such details prior to occupation.
32. In the interests of the character and appearance of the area conditions are necessary to require the approval of all boundary treatments to the plots suggested by the Council. For the same reasons the existing hedgerow along the western site boundary should be retained.
33. Finally, the Council has suggested a condition removing certain permitted development rights, thus preventing the installation of external lighting on those plots nearest the southern site boundary. Whilst the reasons for restricting light spillage is justified, it would be very onerous for the Council to effectively monitor and enforce. Some form of external lighting is also likely to be required for safety and to provide a good standard of living accommodation for potential future occupants. Having considered the parties' views, I have therefore reworded the Council's suggested condition to require the approval of a lighting strategy. This will ensure that the Council can control the type, position, design and levels of illumination of any external lighting prior to occupation, whilst still allowing for some appropriate lighting where required.

Matthew Birkinshaw

INSPECTOR

Conditions Schedule

- 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: 19/2184/01 Rev. JA, 201/1G, 202/1F, 212/1, 301/1H, 304/1E, 307/1B, 309/1E, 310/1D, 313/1, 314/1, 401/1G, 403/1J, 405/1E, SD700 Rev.B, SD701 Rev.C and 3104/CMP/01.
- 3) No development shall take place until a scheme of highway works necessary to provide a permanent vehicular and pedestrian connection from the site to Mary Street has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme, which shall also include a programme for completion of the works and schedule for establishing the proposed link.
- 4) No development shall take place until a Construction and Environmental Management Plan (the 'CEMP') for the development has been submitted to and approved in writing by the local planning authority. Thereafter, the CEMP shall be implemented in full. The CEMP shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage and usage of plant and storage of materials used in constructing the development;
 - iv) measures to control the emission of dust, dirt and other debris during demolition and construction;
 - v) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vi) details of wheel washing facilities and street cleansing (including full details of its specification, siting and implementation);
 - vii) delivery and construction working hours;
 - viii) construction traffic routing;
 - ix) protection measures for cyclists and pedestrians;
 - x) mitigation for bats, birds, reptiles amphibians and hedgehogs;
 - xi) the implementation of suitable stand-offs with appropriate protection measures for all retained hedgerows and trees; and
 - xii) measures to prevent pollution of the adjacent water body from fuel oil spills and other contaminants.
- 5) No development shall take place until an investigation into the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the local planning authority. In order to comply with this condition, the proposal should comply with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and "BS 10175 (2011) Code of Practice for the investigation of potentially contaminated sites".

- i) A written report should be submitted to and approved by the local planning authority which shall include details of the previous uses of the site, surrounding contaminative land uses, potential contaminants that might reasonably be expected given those uses and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.
 - ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment shall be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance. The report should fully and effectively characterise the nature and extent of any land contamination and /or pollution of controlled waters and should be submitted and approved by the local planning authority.
 - iii) Where the risk assessment identifies any unacceptable risk or risks, a detailed remediation strategy to deal with land contamination and /or pollution of controlled waters affecting the site shall be submitted and approved by the local planning authority. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the local planning authority.
 - iv) A validation report for the site remediation shall be submitted to, and approved in writing by the local planning authority, before completion of the development or occupation of the premises (whichever comes first).
- 6) No development shall take place until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 7) No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved programme.
- 8) All site clearance work shall be undertaken outside the bird-breeding season (March – September inclusive). If clearance works are to be carried out during this time, a suitably qualified ecologist shall be on site to survey for nesting birds in such manner and to such specification as may have been previously approved in writing by the local planning authority.

- 9) No development shall take place above damp proof course level until a scheme and timetable for the implementation of biodiversity enhancements has been submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall include:
- i) the provision of bird and bat boxes;
 - ii) the installation of hedgehog friendly boundary treatments; and
 - iii) the provision of a species rich wildflower meadow.

The agreed biodiversity enhancements shall be completed and available in accordance with the agreed scheme and timetable.

- 10) Notwithstanding the submitted details, no development shall take place above damp proof course level until details of the facing and roofing materials to be used in the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 11) Notwithstanding the submitted details, no development shall take place above damp proof course level until full details of hard landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include hard surfacing materials for all driveways and car parking and other vehicular and pedestrian access and circulation areas. Development shall be carried out in accordance with the approved details.
- 12) No development shall take place above damp proof course level until a scheme for tree planting on and landscape treatment of the site has been submitted to and approved in writing by the local planning authority. The agreed scheme shall be fully implemented within nine months of the date when the last dwelling on the site is first occupied. Any trees or shrubs dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees or shrubs of a size and species similar to those originally required to be planted.
- 13) No dwellings within each phase of the development shall be occupied until the roads and footways affording access to those dwellings have been completed up to binder course level and the visibility splays detailed on plan reference 19/2184/01 Rev. JA have been incorporated into the footway.
- 14) No one phase of development shall be occupied until details of the proposed arrangements and plan for future management and maintenance of the proposed streets including associated drainage contained within that phase of development have been submitted to and approved in writing by the local planning authority. The streets and drainage shall for the lifetime of the development be maintained in accordance with the approved private management and maintenance details unless an agreement has been entered into under section 38 of the Highways Act 1980. At which point those streets covered by the agreement will not be subject to the approved management and maintenance details.

- 15) No dwelling shall be occupied until the access and parking area to that dwelling has been provided in a bound material (not loose gravel) and which shall be drained to prevent the unregulated discharge of surface water onto adjacent roads and footways.
- 16) No dwelling shall be occupied until a travel plan for the site has been approved in writing by the local planning authority. Development shall be carried out in accordance with the approved travel plan.
- 17) No dwelling shall be occupied until electric vehicle and ultra low emission vehicle charging points have been provided within each dwelling in accordance with details first submitted to and approved in writing by the local planning authority. The electric vehicle and ultra low emission vehicle charging points shall be retained as such at all times thereafter.
- 18) No dwelling shall be occupied until details of bin collection locations adjacent to shared private drives have been submitted to and approved in writing by the local planning authority. The respective bin collection points shall be in place in a hard-bound material prior to the dwellings benefitting from the associated bin store being first brought into use, and shall be retained as such at all times thereafter.
- 19) Notwithstanding the submitted drawings, the screen fences/walls on plots 4, 5, 6, 7, 8, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 36, 39, 44, 50, 51, 53, 59, 60, 64, 71, 74, 75, 78, 79, 81, 82, 83, 84, 85, 110, 114 and 124 shall be constructed in accordance with details of form and design first approved in writing by the local planning authority, before occupation of the house to which each relates.
- 20) The existing hedge on the western boundary of the site adjacent to Rhodesia Bridleway 2 shall be retained. No part of the hedge shall be removed unless that removal is authorised as part of this grant of planning permission or is the subject of written approval by the local planning authority.
- 21) Plots 57, 58, 59, 69, 70, 71, 72, 77, 78, 79, 80, 82, 83 and 84 shall not be occupied until a lighting strategy has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the strategy, which shall include details of the size, position, orientation and levels of illumination of all external lighting.