
Appeal Decision

Site visit made on 23 March 2021

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2021

Appeal Ref: APP/W3710/W/20/3260323
99 Woodlands Road, Bedworth CV12 0AD

- 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 A Cartwright (Cartwright Homes Ltd) against the decision of Nuneaton & Bedworth Borough Council.
 - The application Ref 036687, dated 16 September 2019, was refused by notice dated 26 August 2020.
 - The development proposed is erection of 9 dwellings including associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 9 dwellings including associated infrastructure at 99 Woodlands Road, Bedworth CV12 0AD in accordance with the terms of the application, Ref 036687, dated 16 September 2020, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr A Cartwright (Cartwright Homes Ltd) against Nuneaton & Bedworth Borough Council. That application is the subject of a separate decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021, after the Council had determined the application. I am required to consider this appeal based on the current Framework. The policies of the Framework that are material to this appeal have not changed fundamentally. As such, it is not necessary to revert to the parties further.
4. Amendments were made to the proposal prior to determination of the planning application by the Council. I have consequently used the description of the development used by the Council in their decision notice as this accurately describes the final development proposed.

Main Issue

5. The main issue is the effect of the proposal on the safe operation of the highway network in the vicinity of the appeal site.

Reasons

6. The appeal site is located off the eastern side of Woodlands Road at the interface between the urban edge of Bedworth and the surrounding open countryside. The site includes 99 Woodlands Road, an existing vehicular access to the side (north) of no 99, and a parcel of predominantly undeveloped land to the rear of a small run of terraced dwellings. The site is predominantly surrounded by open agricultural land to the north, south and east.
7. Woodlands Road is single carriageway road that runs broadly northwest to southeast and is subject to a 30mph speed limit. There is a public footway on the western side of Woodlands Road. Most dwellings have dropped kerb crossovers providing access to parking areas to the front of dwellings on the western side of Woodlands Road. In contrast, on the eastern side of the highway, there is highway verge to the immediate north of the existing access to the appeal site, and a hedge and telegraph pole immediately to the south. There is a small area of pavement to the front of nos 91, 95 and 97 but these dwellings front almost immediately onto the highway. A public footway linked to the wider settlement on the eastern side of the highway starts approximately 150m south of the site. There are no signed restrictions on parking on Woodlands Road in the near vicinity of the site.
8. The Council's refusal reason raises concerns that the appellant has not demonstrated that the required minimum visibility splay along Woodlands Road from the access can be achieved. The appellant has submitted details of a speed survey undertaken by ADC Infrastructure on Friday 24 July 2020 using a radar gun. The survey was taken between 11:00h and 14:00h. 179 vehicles were recorded travelling northbound and 136 vehicles travelling southbound. The 85th percentile speeds were 33.5mph northbound and 31.4mph southbound. The County Highways Authority (the CHA) has raised concerns that the appellant's speed survey did not state where the readings were taken from or how visible the surveyors were to passing traffic. Furthermore, the CHA response raised concerns that the survey was not in accordance with guidance within Highways England's publication The Design Manual for Roads and Bridges (DMRB)¹ where it advises that: a minimum of two surveys shall be carried out (para 2.7); that a minimum of 200 vehicles shall be included (para 2.6); and that the surveys should be carried out between 10am and noon and 2pm and 4pm (Note 1).
9. I have had regard to the assertion of ADC Infrastructure that the speed survey is appropriately robust given it was performed for a reasonable duration of time outside of the peak traffic flow periods², and it was taken from a car that was not easily viewable (parked in the existing access). I also note that the speed survey was taken during a period of 'lockdown' due to COVID19. I have had regard to the research paper³ that accompanied the speed survey and its finding that, whilst the flow of traffic on 30mph roads decreased during lockdown, average and 85th percentile speeds increased. Whilst additional speed survey data would be informative, given the impact of the COVID19 lockdown at the time of the survey, I am satisfied that the speed survey data

¹ DMRB CA 185 – Vehicle speed measurement

² In accordance with paragraph 2.8.2, CA 185

³ Analysing the Impact of the COVID19 Lockdown on Vehicle Flow and Speeds in the UK (R.Owen, C.Smith, G.Ursachi, T.Fosdick – Agilysis Limited)

provided is sufficiently robust to allow appropriate sight stopping distances to be calculated in accordance with Manual for Streets (MfS)⁴.

10. Based on MfS, the appellant advises that a Y distance visibility of 50.1m is appropriate for northbound traffic, with a Y distance visibility of 45.9m for southbound movements. The CHA does not substantively dispute that these distances are appropriate if the 85th percentile speeds of the survey are accepted. The appellant has provided a topographical survey covering the extent of the visibility splays in both directions. The topographical survey shows visibility of 55.6m can be achieved for northbound traffic and 85.2m for southbound traffic (both measurements to 1m offset from the kerb line). Whilst the CHA raises concerns regarding the accuracy of the topographical survey⁵, there is no substantive evidence before me to that effect.
11. The proposed access works include the construction of a bellmouth junction, the relocation of a telegraph pole and the cutting back of vegetation. A footway is proposed along the southern side of the access road and this would link with a new footway on the eastern side of Woodlands Road with an uncontrolled crossing point to the south of the access. Pedestrian visibility at the proposed crossing point is shown on the topographical survey as 1.5m x 50.1m to the south and 1.5m x 45.9m to the north (both measurements to the centre of oncoming traffic). The appellant states that an X distance visibility 1.5m meets the absolute minimum for pedestrians at a junction as set out in DRMB⁶ and that applying this minimum is appropriate given DRMB provides requirements relating to motorways and all-purpose trunk roads. Furthermore, the level of forward visibility to pedestrians at the crossing is indicated by the appellant to be in line with the stopping sight distances in MfS⁷. Whilst the CHA questions why plans were amended and the X distance visibility reduced from 2m to 1.5m, there is no substantive objection before me to the pedestrian visibility splays shown on the topographic survey.
12. The appellant's submitted swept path analysis shows that the Council's specified refuse vehicle would be able to access the site and egress the site without the need to mount the pavement or to make a multipoint turn. Cars parked within Woodlands Road adjacent to the proposed bellmouth junction would inevitably have an impact on the tracking of the refuse vehicle. However, the impact, in terms of tracking onto the opposite side of the highway, would be similar to a refuse vehicle passing such parked cars at present. The development would be unlikely to result in a significant increase in the number of large vehicles using Woodlands Road. The swept path analysis shows refuse vehicles can appropriately manoeuvre within the development to allow forward access and egress. Whilst I note the concerns regarding the parking spaces to plot 7, vehicular speeds and pedestrian movements at the end of the cul-de-sac would be very limited. Off-street parking is provided within the plots of each dwelling and the CHA acknowledges that the width of the access drive would also appropriately accommodate on-street parking. In an emergency, given the width of the proposed access road, I am satisfied that a fire tender would find a means of accessing the proposed properties.

⁴ Department for Transport, Manual for Streets – Table 7.1

⁵ ADC Infrastructure Dwg no. ADC2126-DR-001 Rev P6

⁶ DRMB CD 143 Table E/5.2

⁷ Department for Transport, Manual for Streets – Table 7.1

13. Local residents have expressed concerns about the capacity of the local highway network and its ability to cope with the development. The development would generate a limited number of additional vehicular, pedestrian and cyclist movements. The CHA did not object to the proposal in terms of the development's impact on the capacity of the local road network and I attach significant weight to that advice.
14. Based on the evidence before me, I find that it has been demonstrated that safe and suitable access to the site would be achieved and the local road network has capacity to safely accommodate the traffic resulting from the development, in accordance with Policy HS2 of the Nuneaton and Bedworth Borough Council Borough Plan 2011-2031 (LP) which requires, amongst other things, development to demonstrate adequate accessibility in relation to all principal modes of transport. Moreover, in accordance with paragraph 111 of the Framework, the proposal would not have an unacceptable effect on highway safety and would not have a severe residual cumulative impact on the road network.
15. The Council's reason for refusal also cites LP policy BE3 which sets out a range of criteria aimed at achieving sustainable design and construction. The Council's appeal statement advises that the proposal conflicts with Policy BE3 by not meeting with supplementary planning guidance in the form of MfS. It is not clear from the Council's evidence which aspect of Policy BE3 they consider the proposal to conflict with. Notwithstanding this, I have not found unacceptable conflict with MfS and do not, therefore, find any conflict with Policy BE3 in that regard.

Other Matters

16. The site falls within the LP Policy HSG4 (Woodlands) Strategic Housing Allocation for a mix of residential and community uses. The allocation in the Borough Plan states that the site will be developed for a mix of residential and community uses with approximately 689 dwellings delivered within the entire allocation. The Council has adopted a Concept Plan Supplementary Planning Document⁸ (Concept Plan) for the HSG4 allocation. The Concept Plan is a material consideration and seeks to guide all future stages of development on the strategic land allocation. Figure 6 within the Concept Plan is an indicative plan that shows the rear part of the appeal site as residential, and the front part as informal open space. To the north of the site is an area demarcated for a primary school, other land to the north and east is set out for residential, and land to the south is proposed informal open space.
17. Figure 5 (HSG4 Site opportunities and constraints) within the Concept Plan shows the appeal site as within an area of retained ridge and furrow. LP Policy HSG4 states that a key principle for the development of the allocation is to, where possible, retain areas of high quality ridge and furrow through the careful siting of green space. Whilst I note the concerns of interested parties regarding the loss of the ridge and furrow on the appeal site, I have also had regard to the site specific Ridge and Furrow Appraisal⁹ by Cotswold Archaeology. That appraisal advises that the earthworks on site are incomplete and fragmentary, representing only the slight, eroded, remnants of the former cultivation earthworks within a single furlong. The appraisal concludes that the

⁸ Concept Plans for Strategic Allocations: HSG4, Woodlands Supplementary Planning Document (2020)

⁹ Ridge and Furrow Appraisal – Cotswold Archaeology (June 2020 – Ref:MK0258_1)

remains are not considered to comprise a non-designated heritage asset for the purposes of the Framework¹⁰. There is no substantive evidence before me that would lead me to disagree with the findings of the appraisal.

18. Paragraph 1.2.3 of the Concept Plan states that alternative solutions and land use arrangements may come forward as part of the planning application process, but the concept plans should be viewed as fundamental principles for the site, and any significant differences in approach would need to be justified at the planning application stage. I have had regard to the Concept Plan but note that it is not a masterplan and that Figure 6 is an indicative plan. The proposed scheme would not harm the comprehensive delivery of the wider HSG4 site allocation or its ability to fulfil the strategic aims of the Borough Plan. The proposal would locate housing adjacent to other areas planned for residential and community facilities and would not prejudice the delivery of those areas, or the delivery of adjacent areas of informal open space. The retention of the site as informal open space is not justified by the significance of the ridge and furrow present on the site.
19. I have had regard to the concerns of interested parties with regards to the impact of the proposal on the living conditions of neighbouring properties; on surface water drainage and flood risk; ecology and protected species; air quality; infrastructure; and loss of landscape features. These matters are largely identified and considered within the committee report on the appeal development, and they were also before the Council when it submitted its appeal statement. The Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence that would prompt me to disagree with the Council's conclusions on these matters subject to the imposition of planning conditions. There is no evidence before me to indicate that the site is within an air quality management area or that the proposal would have a material impact on air quality in the surrounding area.

Planning Balance

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations, including the Framework, indicate otherwise. I have found the proposal to accord with the development plan with regards to highways safety, the Council's only stated reason for refusal. The variation in land use to that set out on the indicative plan within the Concept Plan has been adequately justified in accordance with paragraph 1.2.3 of the Concept Plan.
21. Whilst I acknowledge concerns that the proposal's impact on traffic generation and highways safety will interfere with the human rights of the occupier of 97 Woodlands Road, I am satisfied that any such harm could be overcome by the imposition of relevant planning conditions. The degree of interference that would be caused would be insufficient to give rise to violation of rights under Article 8 and Article 1 of the First Protocol to the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.
22. The proposal would align with the government's aim to boost housing supply, if only by a modest amount. This counts in its favour and aligns with the social

¹⁰ Framework paragraph 203

role of sustainable development which seeks to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. The development would comply with the Framework requirements to focus development on locations which are sustainable¹¹, promote sustainable transport modes¹² and have accessible services. I give moderate weight to the proposal's contributions to the environmental and social objectives of the Framework.

23. With regard to the economic role of sustainable development, the proposal would lead to the creation of construction work and support for local services and facilities arising from future occupiers. Given the scale of the proposal, these are benefits of moderate weight.
24. Overall, I find the proposal to comply with the development plan when taken as a whole, including LP Policy DS1 which supports development that improves the economic, social and environmental conditions in the area. There are no material considerations, taken individually or cumulatively, that outweigh the identified benefits or indicate that the appeal should not succeed.

Conditions

25. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. I find them to be reasonable and necessary in the circumstances of this case. Where appropriate, I have amended the suggested conditions for clarity and to ensure compliance with national policy and guidance. I have also added necessary conditions in relation to highways, ecology, tree protection and archaeology. The numbers in brackets relate to the conditions in the schedule.
26. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant plans and documents as this provides certainty (2).
27. In the interests of highway safety and to promote sustainable transport choices, it is necessary to have conditions securing provision of the appropriate vehicular access road (4), footway and crossing point (12), and visibility splays (14).
28. A condition to secure the implementation of a Construction Method Statement is also necessary in the interests of highway safety and to protect the living conditions of local residents (3).
29. In the interests of ecology, a condition ensuring appropriate enhancement of biodiversity in accordance with Framework paragraph 174 is necessary (8). To protect the character and appearance of the area, conditions securing appropriate landscaping (6), tree protection (7), site levels (9), finishing materials (11), and boundary treatments (13) are necessary. In order to prevent increased risks of flooding and pollution, and in the interests of the principles of sustainable drainage, a condition is necessary to ensure the appropriate surface and foul water drainage of the site (5).
30. In the interest of protecting and recording archaeology, a condition is necessary to secure archaeological surveying, mitigation and recording (10).

¹¹ Framework paragraph 105

¹² Framework paragraph 110

31. Conditions 3 to 10 inclusive are pre-commencement conditions as these measures will need to be agreed and/or put in place before works begin to prevent the development resulting in harm with regard to the respective matters the conditions are seeking to control.

Conclusion

32. For the reasons above, the appeal is allowed subject to the conditions in the attached Schedule.

S D Castle

INSPECTOR

Schedule of Conditions attached to Appeal Decision
Appeal Ref: APP/W3710/W/20/3260323
99 Woodlands Road, Bedworth CV12 0AD

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:
 - Location Plan, dwg no.19 38 01
 - Site Layout, dwg no.19 38 07M
 - Street Elevation, dwg no.19 38 18D
 - Plot 1 and 7, dwg no.19 38 21A
 - Plot 9, dwg no.19 38 20A
 - Plot 2, dwg no.19 38 22B
 - Plot 3 and 6, dwg no.19 38 23B
 - Plot 8, dwg no.19 38 24B
 - Plot 5, dwg no.19 38 25A
 - Plot 4, dwg no.19 38 26B
 - Plot 2 and 5 Garage, dwg no.19 38 40
 - Plot 3 and 4 Garage, dwg no.19 38 41
 - Plot 8 Garage, dwg no.19 38 42
 - Dwg no. ADC2126-DR-001 Rev P6

Pre-commencement

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a. the parking of vehicles of site operatives and visitors;
 - b. loading and unloading of plant and materials;
 - c. storage of plant and materials used in constructing the development;
 - d. wheel washing facilities;
 - e. measures to control the emission of dust and dirt during construction;
 - f. a scheme for recycling/disposing of waste resulting from construction works;
 - g. delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4. No development shall commence until full details of the access road serving the development, including construction, alignment, levels, drainage, lighting, footpaths and verges have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the access has been constructed in accordance with the approved details.

5. No development shall commence until full details of the surfacing, drainage and levels of the car parking and manoeuvring areas as shown on the approved plans have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until these areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles.
6. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be fully completed in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any tree or plant (including any replacement) which, within a period of five years from the implementation of the scheme, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season with another of a similar size and species unless the local planning authority gives its written consent to any variation.
7. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
8. No development shall commence until a Biodiversity Enhancement Strategy [BES] to achieve biodiversity enhancements has been submitted to and approved in writing by the local planning authority. The BES shall be implemented in accordance with the approved details (including a timetable) and shall be adhered to thereafter.
9. No development shall commence until full details of the site levels and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. No construction work shall be carried out other than in accordance with the approved details.
10. The development hereby permitted shall not be commenced until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) the programme and methodology of site investigation and recording
 - b) the programme for post investigation assessment;
 - c) the provision to be made for analysis of the site investigation and recording;
 - d) the provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e) the provision to be made for archive deposition of the analysis and records of the site investigation

- f) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the Written Scheme of Investigation approved under this condition.

Above ground/slab level

- 11. No development above slab level shall commence until full details and samples of materials proposed to be used in the external parts of any building have been submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details.
- 12. Notwithstanding the details indicated on the approved plans, no development above slab level shall commence until a detailed scheme for the footway connection with Woodlands Road (including the pedestrian crossing point on Woodlands Road) has been submitted to and approved in writing by the Local Planning Authority. The footway connection shall be completed in accordance with the approved scheme to the written satisfaction of the Local Planning Authority prior to the first occupation of any of the dwellings hereby approved.
- 13. No development above slab level shall begin until full details of the boundary treatments, including any new walls and fences, have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the boundary treatment to that plot has been carried out in accordance with the approved boundary treatment details.

Occupation

- 14. No dwelling shall be occupied until visibility splays have been provided to the vehicular access of the site in accordance with approved drawing number ADC2126-DR-001 Rev P6. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway thereafter.