



Appeal Decision

Site visit made on 31 January 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2023

Appeal Ref: APP/W3710/W/22/3308944

Land opposite 145 Watling Street, Nuneaton CV11 6BQ

- 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 Ferzana Hannan (Jamia Estates Development Ltd) against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 038274, dated 17 August 2021, was refused by notice dated 19 July 2022.
 - The development proposed is 4 No. 3 bedroom houses with associated parking and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the header is taken from the application form. The appeal form states the description has not changed but provides different wording. There is no record that any revision to the description has been agreed between the main parties and so I have used the original.
3. The application seeks outline planning permission with all matters of detail reserved for future consideration. I have considered the appeal on this basis.
4. I am referred by both main parties to appeal decision reference APP/W3710/W/20/3264760 (hereafter referred to as the previous appeal decision). This relates to a similar proposal on the same site as that before me now. The appeal was dismissed on 18 May 2021. The decision and Inspector comments are material considerations in my determination of this appeal.

Main Issue

5. The main issue is whether the development would be in a suitable location having regard to the policies of the Nuneaton and Bedworth Borough Plan 2019 (the BP), the National Planning Policy Framework (the Framework) and accessibility to services.

Reasons

6. The appeal site is an overgrown parcel of land off an access drive on the north side of Watling Street (also called the A5). There is a small group of houses on the opposite side of the drive and a residential cul de sac at Meadowcroft Farm on the other side of the A5. Otherwise, the land immediately surrounding the site is undeveloped, albeit affected by traffic noise from the A5.

7. A significant area of land to the south of Watling Street is designated in the BP for housing development (the HSG1 site). Recently constructed houses can be seen at a distance from the appeal site across the A5 and vacant land on the northern part of the HSG1 site. Housing, a shop, public house, a petrol station and eating establishments are near to the junction of The Long Shoot and the A5 to the east of the site. Further to the east is an industrial and business area. Reference is also made to the MIRA Technology Park, which is a significant distance away from the appeal site to the west.
8. BP policy DS3 sets out development principles and states that new unallocated development outside settlement boundaries will be limited to specified uses. These permissible uses do not include residential development. The appellant has not sought to dispute the Council's claim that the appeal site lies outside defined settlement boundaries. Also, there is no indication the site is allocated for development. There is no contention the proposal would accord with any of the specified exceptions for unallocated sites outside settlement boundaries and so it would conflict with BP policy DS3. The site is near to the northern boundary of the HSG1 site. However, I am aware of no BP policy that allows residential development close to but outside settlement boundaries or allocated sites.
9. To meet its aims on housing provision, the BP designates undeveloped parcels of land on the edge of Nuneaton for residential development. However, this housing strategy does not support the development of unallocated land such as the appeal site.
10. Moreover, I am advised that the nearby housing developments on the opposite side of the access drive and at Meadowcroft Farm were permitted prior to the adoption of the BP. Therefore, these permissions do not set a precedent to be followed with this appeal as they were granted at a time of different planning policies and circumstances. The nearby houses mean the proposed dwellings would not be in an isolated location and so they are not to be avoided under the terms of paragraph 80 of the Framework. However, this fails to address or override the identified conflict with BP policy DS3.
11. In terms of accessibility, the MIRA Technology Park is likely to be beyond a realistic walking distance for occupiers of the dwellings. However, the facilities near to The Long Shoot would be within a reasonable walking or cycling distance. The industrial area to the east would be further away but it is still likely to be walkable for residents. A combined walkway/cycleway on the appeal site side of the A5 and which benefits from lighting would provide a safe route from the development to The Long Shoot facilities.
12. However, as noted by the Inspector in the previous appeal decision, the route to the facilities to the east would be unattractive for residents given the busy and noisy nature of the A5 and the close proximity of vehicles travelling at high speed. It is unclear from the submissions whether the facilities at The Long Shoot fall within a designated district or local centre as referred to in BP policy TC3. In any event, the range of facilities is unlikely to meet all of the day to day needs of future residents. In particular, there is no indication that primary or secondary schools would be within reasonable walking distance from the site.
13. Evidence has been provided of a bus service that links Nuneaton bus station with MIRA Technology Park and Hinckley bus station. I note that such evidence

was not referred to in the previous appeal decision. Also, the Council acknowledges that the service would provide residents of the proposal with public transport links to town centres.

14. Even so, access to a bus service would not address the lack of attractive walking and cycling routes from and to the appeal site. Even when taking into account the bus service, the location of the proposed development is likely to encourage the use of private motor vehicles as walking and cycling would be unattractive options.
15. The housing development on the HSG1 site is on-going. The submissions suggest that the development has progressed significantly since the previous appeal decision. However, as far as I am aware no access link between the houses and the A5 has yet been provided and there is still a large tract of undeveloped land on the north part of the HSG1 site. The appellant refers to the BP in support of the contention that a new distributor road would be provided to serve the HSG1 site by 2027. Even if this is forthcoming, there is little information before me to show that this would enable easy pedestrian and cycle travel between the appeal site and the HSG1 land.
16. Furthermore, while a community hub including a primary school and a local centre are proposed, no details have been provided on where these would be in relation to the appeal site and when they would be constructed. It seems these would not be provided in the near future as the Council advise that no planning permission exists for new community buildings. Also, the evidence fails to show that any new facilities would be safely and conveniently accessible by foot and cycle from the appeal site. In light of these uncertainties, I am unconvinced that development on the HSG1 site would address the identified accessibility issues with the appeal scheme. As such, I find the development would not be located so as to promote walking and cycling. In these respects it would not accord with the provisions of the Framework.
17. For the above reasons, I conclude that the proposed development would not be in a suitable location when having regard to BP policies, the Framework and accessibility. In these regards, it would not accord with the development principles set out in BP policy DS3.

Other Matters and Planning Balance

18. I am referred to the recent planning appeal decision reference number APP/W3710/W/22/3301839, which relates to a housing scheme at Galley Common in Nuneaton. In allowing this appeal, the Inspector found that a 5 year supply of deliverable housing land could not be demonstrated. Instead, the Inspector found only a 4.94 year of land supply could be shown. In arriving at this conclusion, the Inspector discounted a number of dwellings from the Council's claimed supply figures due to concerns over deliverability and rates of construction.
19. With this current appeal, the Council has provided updated housing land supply figures with responses to the Inspector's comments on deliverability of housing at various sites. The Council's responses are short summaries on actions taken since the Galley Common appeal decision. These include obtaining updates from land agents for allocated housing sites and addressing staff shortages to deal with the discharge of conditions on housing development planning permissions. Also dates have been targeted for current housing planning

applications to be considered and determined. In light of these actions, the Council contends housing delivery is now more certain on allocated sites than was the case at the time of the Galley Common appeal decision. A 5.36 year supply is now claimed.

20. I am unconvinced from the short summaries of actions taken that the Council evidence firmly establishes the claimed uplift in housing land supply figures compared to those established by the Galley Common appeal Inspector. No record of communications with land agents is provided. Also, there is little evidence to show how any solution to staffing issues has helped progress the discharge of planning conditions relating to housing development. As such, I agree with the Galley Common appeal Inspector's conclusion that the Council is unable to demonstrate a 5 year supply of deliverable housing sites.
21. In such circumstances, paragraph 11 of the Framework indicates that relevant development plan policies should be deemed as out of date. Paragraph 11 goes on to require consideration of the benefits and the adverse impacts of the development against the policies of the Framework as a whole.
22. The relevant highway authority raises no objections and so I am satisfied the development would avoid an unacceptable effect on highway safety. Also, a scheme of high quality design that respects nearby housing could be secured. Acceptability in these regards is a neutral factor in my assessment.
23. The development would add to the housing stock and would bring economic benefits in terms of construction jobs and support for local services. Also, it would make a more effective use of a vacant plot of land. As a small scheme it could be delivered quickly. In all of these regards, it would be supported by the provisions of the Framework. However, the overall benefits of the scheme are modest given that only 4 dwellings would be provided.
24. The identified accessibility issues means the development would not accord with the Framework's aim to promote sustainable transport, particularly walking and cycling. This conflict would significantly and demonstrably outweigh the benefits of the scheme when having regard to the policies of the Framework when considered as a whole. As such, the presumption in favour of sustainable development as laid out in paragraph 11 of the Framework does not apply.

Conclusion

25. The development would not accord with the development plan policies in terms of its location. There is insufficient justification to grant planning permission contrary to the development plan. Accordingly, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR