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# Appeal Decision

Site visit made on 19 December 2023

**by E Worley BA (Hons) Dip EP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 February 2024**

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**Appeal Ref: APP/R3705/W/23/3321483**

**Willow Close, Nuneaton CV10 0XA**

- 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 Rosconn Strategic Land against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2021/0395, dated 23 June 2021, was refused by notice dated 7 March 2023.
  - The development proposed is the construction of up to 29 dwellings with associated landscaping, open space, sustainable drainage system and service infrastructure; to include details of access off Willow Close with all other matters reserved.
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## Decision

1. The appeal is allowed and planning permission is granted for the construction of up to 29 dwellings with associated landscaping, open space, sustainable drainage system and service infrastructure; to include details of access off Willow Close with all other matters reserved at Willow Close, Nuneaton CV10 0XA in accordance with the terms of the application, Ref PAP/2021/0395, dated 23 June 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
3. The application was made in outline with only access sought for approval. The appeal site forms a small part of a cross-boundary planning application made to both North Warwickshire Borough Council (NWBC) and Nuneaton and Bedworth Borough Council (NBBC). The larger proportion of the site, which includes the land on which it is proposed to erect the dwellings, falls within the administrative boundary of NBBC, who recently resolved to grant planning permission for the development subject to a Section 106 legal agreement. Access to the site, which is the subject of this appeal, is on land within the administrative boundary of NWBC.
4. The appeal is made against the decision of NWBC to refuse planning permission for the development on the part of the appeal site that falls within its jurisdiction, namely the access to the site. As such, in relation to this appeal, my decision is limited only to the portion of land within the boundary of NWBC.

## **Main Issue**

5. The main issue is therefore the effect of the proposed access to the development on the character of Willow Close and the living conditions of its occupiers', having specific regard to additional vehicular and pedestrian activity.

## **Reasons**

6. Willow Close (the Close) is a no through road comprising single storey semi-detached and terraced bungalows of a similar size and appearance. The properties along the main part of the road in the Close front the highway, they are set back from the road with intervening front gardens of varying lengths, and in some cases off street parking spaces. There is a pavement on both sides of the carriageway along the full extent of the Close. The bungalows at 9-23 Willow Close (Nos 9-23) form an adjunct to the main part of the Close, extending between the existing road towards Coleshill Road. These properties benefit solely from pedestrian access and have allocated off-street parking spaces in an area adjacent to the main carriageway. As well as dedicated on-street disabled spaces within the Close, there is a layby which provides off road parking provision.
7. At the time of my site visit, which I appreciate is only a snapshot in time, whilst there were a few traffic and pedestrian movements, the Close was generally tranquil in nature, in part due to it being a no through road.
8. The appeal proposal would see the formation of the access to serve the proposed development of up to 29 houses by a continuation of the road at the turning head of the cul-de-sac. It would introduce additional vehicles and pedestrian movements through the Close, which would inevitably lead to a greater degree of disturbance from the noise of passing people and vehicles, headlights, and general comings and goings above the current levels, which would change the character of the Close.
9. The bungalows in the Close are wholly occupied by elderly residents, some of whom have particular health and/or mobility needs. As the proposal would have particular impacts on persons who share a protected characteristic, which includes age, I have had due regard to the Public Sector Equality Duty set out in s149 of the Equality Act 2010.
10. The appeal submissions indicate that, due to the lack of through traffic and the layout and design of the properties, with lounge windows facing one another, the occupiers of the bungalows enjoy a sense of tranquillity and an environment that feels safe with a strong sense of community. Many had an expectation that this would continue during their later years. Given that elderly residents are increasingly likely to spend more time at home, than those who do not share that protected characteristic, the occupiers of the Close may be more perceptible to the effects of changes to their environment, including additional activity close to their property.
11. In terms of traffic generation from the proposed development, the appellants Transport Statement indicates that the proposed development would generate 131 vehicle movements between 7:00am and 7:00pm, with 14 and 15 movements respectively in the morning and evening peak hours. The overall volume of traffic associated with the proposal would be modest. Furthermore,

with vehicle movements equating to 1 every 4 minutes on average even during the busiest period, the traffic flow would not be particularly busy. As such, at these levels, there is no reason to believe that the area would become congested. There would also likely be substantial periods during the day with no vehicle movements.

12. While the development would mean that the Close would be discernibly busier, the increase in noise and disturbance arising as a result of the additional vehicle and pedestrian activity would nevertheless be limited given the overall volume and dispersal throughout the day. Furthermore, the existing arrangement would still prevail in terms of the layout of the Close, in particular the direct facing lounge windows, which would maintain the relationship between the properties and sense of community of the residents. Moreover, despite additional vehicles and pedestrians passing through the Close, it would remain a distinct group of properties separate from the wider development.
13. I appreciate that the speed of vehicles in the Close is currently slow, due in part to it being a no through road. However, there is no substantive evidence that vehicles travelling through the Close to access the new dwellings would do so at excessive speeds or that there would be unusually high levels of activity, either vehicular, cycle, or pedestrian, at unsociable times of the day.
14. With regards to construction traffic, any associated noise and disturbance in that regard would be for a temporary period only. Moreover, there is nothing before me to indicate that the proposal would adversely affect the safety and security of residents or their pets, nor that it would harm health through increased pollution from dust or fumes.
15. I have had due regard to the demographic profile of the residents of the Close and, in particular the need to foster equality of opportunity and avoid discrimination between those who share a protected characteristic and those who do not. Nevertheless, for the foregoing reasons, while the proposal would inevitably lead to an increase in vehicular and pedestrian movements in the Close, the additional activity generated, over and above existing levels, would not give rise to a level of activity which would be harmful to the character of the area or the living conditions of the occupiers of the bungalows, whoever they were, through noise and disturbance.
16. Accordingly, the appeal proposal would comply with Policy LP29(9) of the North Warwickshire Local Plan adopted September 2021 which sets out that new development should avoid and address unacceptable impacts upon neighbouring amenities through, among other things, noise, light, air quality or other pollution. It would also accord with Policy H4 of the Hartshill Neighbourhood Development Plan adopted 2017 in so far as it requires that development should have no significant adverse impact on residential amenity arising from noise, light or air contamination.

### **Other Matters**

17. I note concerns regarding parking congestion within the Close, particularly during busy periods, and the effects of increased traffic generation on highway safety, including access for emergency vehicles. However, the Highway Authority has raised no objection to the proposal on highway safety grounds, subject to conditions and a financial contribution to highway improvements to be secured as part of the wider development.

18. The proposal includes changes to the current parking layout within the Close to enable the free flow of traffic to and from the proposed residential development beyond. Whilst this may mean that residents would need to walk greater distances between their parked vehicles and properties, given the parking spaces that would be affected are not allocated spaces they are not guaranteed to be available for use by specific residents. Consequently, no particular persons would be any more disadvantaged by the proposal than they are by the current arrangements, and I give limited weight to the effects arising from their relocation.
19. Several concerns have been raised by interested parties regarding the effects of the development including the loss of green space, capacity of the highway network, risk of flooding and lack of infrastructure, which relate to the wider site beyond the appeal site boundary. Therefore, these matters would be more appropriately assessed through the application of the proposal within the neighbouring authority's jurisdiction.

### **Conditions**

20. I have considered the conditions put forward by the appellant, to which the Council indicate they are agreeable, and the Highway Authority, in light of the requirements of the Planning Practice Guidance and the Framework.
21. I have attached standard conditions relating to the commencement of development and the submission of reserved matters. A condition is necessary to secure details of a construction management plan in the interests of highway safety. I have not imposed conditions relating to the effects of the development that might arise from the part of the development that lies outside of the appeal site and on land that is not within the jurisdiction of NWBC, or conditions that require work to be carried out before the first occupation of the proposed dwellings for the same reason.

### **Conclusion**

22. For the reasons set out above the appeal is allowed, subject to the conditions in the attached schedule.

*E Worley*

INSPECTOR

### **Schedule of Conditions**

- 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. The development hereby permitted shall be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the 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: Site Location Plan Drg No. 178\_01 and Proposed Access General Arrangement Extension to Willow Close - Dwg No. 21507-01-2 Rev C.
- 4) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall be strictly adhered to during the construction of the development and shall provide for: the anticipated movements of vehicles; the parking and loading/unloading of staff, visitor, and construction vehicles; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; a turning area within the site for construction vehicles; wheel washing facilities and other measures to prevent mud/debris being passed onto the public highway; a construction phasing plan; and a HGV routing plan.

**\*\*\*\*\*end of conditions\*\*\*\*\***