



Appeal Decision

Site visit made on 5 June 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2024

Appeal Ref: APP/X3025/W/24/3336992

Land to the north of Church Hill Avenue, Mansfield Woodhouse

Easting: 454253 Northing: 363179

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Anthony and Alison Corbett against the decision of Mansfield District Council.
 - The application Ref is 2022/0391/OUT.
 - The development proposed is described as "outline planning application with some matters reserved (appearance and landscaping reserved. This application seeks approval for access, layout and scale) for 12 no. residential dwellings."
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application with some matters reserved for 12 no. residential dwellings at land to the north of Church Hill Avenue, Mansfield Woodhouse, in accordance with the terms of the application, Ref 2022/0391/OUT, and subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The planning application was made in outline with access, layout and scale to be considered, and appearance and landscaping reserved for future determination. I have dealt with the appeal on the same basis.
3. The description of development above has been taken from the appeal form and the Council's decision notice. That description, while differing from the one given on the application form, reflects the reduced number of dwellings proposed and has been agreed by the parties.
4. During the course of the appeal, a signed Unilateral Undertaking (UU) was submitted, which seeks to secure financial contributions towards affordable housing provision, improvements to a bus stop, highway works and open space, and the establishment of a management company for the site. The main parties confirm that they have agreed the terms of the UU. I shall return to this matter later in this decision.
5. The appellants submitted a revised illustrative site plan, which gives further detail on the proposed access road, together with a Road Safety Audit, at appeal stage. As these do not change the substance of the proposal that was considered by the Council, no parties' interests would be prejudiced by my consideration of them.

Main Issue

6. The main issue is whether safe and suitable access to the site would be achieved, and the effect of the proposed development on pedestrian safety.

Reasons

7. The appeal site is a rectangular parcel of land located on the northern side of Church Hill Avenue. The site is grassed over and is bordered by residential properties to three sides and a burial ground to the east. It is accessed via the turning head at the end of Church Hill Avenue between 19 Church Hill Avenue and 41 Catherine Avenue. There is a notable slope down from Church Hill Avenue to the main body of the site, which then continues to descend more gradually towards the northern boundary.
8. St Edmund's Church of England Primary School is located opposite on the south side of Church Hill Avenue, which is otherwise a quiet residential road consisting predominantly of detached properties. It is a relatively broad road with footpaths on both sides. Vehicles park outside properties on both sides of the road before it narrows on the approach to the proposed site entrance and the school. There is a hatched yellow box on the turning head and 'keep clear' road markings at the site entrance and before the school to prevent vehicles parking in this area. Church Hill Avenue is a cul-de-sac for vehicles, though there is a public footpath from the end of the road which runs along the side of the school and provides a pedestrian link to Leeming Lane South.
9. The appeal proposal is a residential development of 12 dwellings comprising a mix of properties, including bungalows. As there is currently no vehicular access to the site, it is proposed to form a new priority-controlled T-junction and internal access road to the south of the site, with a turning head towards the northern boundary. The access road would be private and unadopted and a management company would be established to manage and maintain it. A total of 31 parking spaces are proposed across the site. Footpaths would be provided within the site and at the entrance which would link to the existing public right of way through to Leeming Lane South.
10. While only a snapshot in time, I observed during my site visit that vehicle speeds along the road were low, reflecting its mainly residential nature and position relative to the school. As Church Hill Avenue is straight for much of its length, oncoming vehicles can be clearly seen in both directions.
11. Concerns have been raised over vehicle movements associated with the development and the effect on pedestrian safety, particularly in respect of children attending the nearby school. The Council refers to insufficient information in this regard. However, the application was accompanied by a detailed site layout, sections, swept path analysis, and a Transport Statement that included a review of existing conditions, collision data and accessibility by pedestrians, cyclists, bus and train and an assessment of highway impacts.
12. The Transport Statement indicates that the development would generate a maximum of 12 two-way vehicle trips during a weekday morning peak hour, which would be likely to coincide with children being dropped off at the School, and up to 11 two-way vehicle movements during the evening peak hour, after school pick up time. These figures, which the Council has not disputed, do not to my mind represent a significant increase in vehicle movements over the

existing use of the road, which as well as providing access to the school and properties on Church Hill Avenue and Church Gardens, is also likely to be used by occupiers on St Edmund's Avenue.

13. The appellants' collision data records one incident in the last five years, involving two vehicles and appears to have been unrelated to the school drop-off and pick-up times and was some distance away from the site at the junction of Church Hill Avenue and Church Hill. The evidence provided does not indicate that there is a significant highway safety problem in the area.
14. I am not persuaded that the gradient of the access road would be particularly difficult or distracting for motorists entering or leaving the site, as most will be occupiers of the development and will be accustomed to the road geometry and conscious of children accessing the school at certain times of the day. Visitors to the site would be aware of the road narrowing on the approach to the school and the change to road surfacing and road markings suppress vehicle speeds.
15. There is a suggestion that the change in road surfacing and road markings on the approach to the site and the school results in pedestrians and school children walking in the road. However, even if they do occasionally walk within the carriageway, the change in road surfacing and the presence of road markings on the approach to the school means that traffic speeds in this area will be low. Forward visibility from the site access onto Church Hill Avenue, including towards the school entrance, would be good, such that vehicles exiting the site would have clear views towards pedestrians crossing the road.
16. The Council has referred to problems associated with the number of vehicles in Church Hill Avenue at busier times of the day, including parking on the footways, resulting in children and adults having to walk in the road. However, these issues seem to point more to individual driver behaviour during school drop-off and pick-up times than to the safety of the road. It is unlikely that the development would exacerbate these issues given that sufficient parking would be provided within the site.
17. Although the proposal would lead to an increase in the number of vehicles using Church Hill Avenue, in overall terms I consider that the volume of traffic would remain low. Such additional movements could be safely accommodated bearing in mind vehicles would be travelling at a reduced speed and the provision of appropriate visibility and improved pedestrian links at the site access. Consequently, taking account of the anticipated traffic generated by the development, including at peak times, there would not be an unacceptable conflict between vehicles entering or exiting the site and users of the footpath, including children accessing the school.
18. I acknowledge that there have been a substantial number of objections from local residents regarding pedestrian safety, particularly in relation to the nearby school, and that their concerns are based on experience of the area. However, these must be balanced against other considerations, including the provisions of the development plan and the National Planning Policy Framework (Framework). Based on the evidence before me and my observations of the area, I do not consider that there would be demonstrable harm to pedestrian safety. Moreover, I note the Highway Authority did not object to the proposal's effect on pedestrian safety, which reinforces my view that the proposal would not be harmful in this respect.

19. Having regard to the gradient of the access road, the Council considers that the internal access road and footway would not provide safe and suitable access for all users, particularly those with limited mobility. As a result of the fall in levels, the gradient of the initial part of the access road would be between 1 in 6 and 1 in 10. Once past the site entrance, it would level off slightly to between 1 in 11 and 1 in 16. The steeper gradients towards the southern part of the site would exceed those recommended in the Highway Design Guide prepared by Nottinghamshire County Council and the publication Inclusive Mobility (Department of Transport), and would therefore be substandard. The individual plot levels would appear to be capable of having a 1 in 20 approach which would comply with the accessibility standards.
20. That said, the Highway Design Guide is not intended to be a rigid solution to all road layouts and the recommended gradients can be relaxed where it can be demonstrated that they are not feasible on particularly challenging sites. That is the case with the appeal proposal, where the site entrance is constrained by topography. Applying an overly inflexible approach to this matter would render many sites undevelopable, which is undesirable given the Government's objective of significantly boosting the supply of homes.
21. The proposed gradients are similar to others across the country and in the vicinity of the appeal site itself, such as St Edmund's Avenue and on the approach to the school on Church Hill Avenue, which members of the public must already negotiate. Access to and from the site would therefore be comparable to many other properties nearby. I accept that the access road and footpaths would be steep in places, but would not be unreasonably so, having regard to the surrounding context. I am also mindful that not dissimilar gradients have been accepted for other recent housing schemes in Mansfield, including High Oakham Hill¹ and Woodland Park View².
22. The distance involved to reach Church Hill Avenue from the steepest part of the access road would be short, and a handrail would be provided on the steepest section to assist pedestrians. The Council's Waste and Recycling Team confirm that the layout is suitable for refuse vehicles to enter the site to empty bins, as demonstrated by swept path analysis. As such, it would not be necessary for residents to bring their bins up to the site entrance. I am also satisfied that the turning areas at the site access and within the site would be sufficient, and would enable emergency vehicles and delivery vans to enter and leave the site in forward gear. I further note the design measures shown on the illustrative site plan which would ensure that the access is as safe as possible.
23. These considerations lead me to conclude that while the development would not endanger pedestrian safety, it would be somewhat substandard in terms of pedestrian access, particularly for people with limited mobility, but not significantly so having regard to the surrounding context. For these reasons, there would be limited conflict with Policies P3 and IN9 of the Mansfield District Local Plan 2013-2033, which amongst other things, seek to ensure that development does not endanger highway safety, and allows for satisfactory access and egress from the highway and internal movements within the site. I do not find a conflict with Framework paragraph 115, which says that development should only be prevented or refused if there would be an

¹ Council Ref. 2019/0802/FUL.

² Council Ref. 2013/0426/ST

unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

24. Concerns have been raised by local residents regarding a number of other matters, including the effects on the living conditions of neighbouring occupiers, flood risk and loss of wildlife. These matters are not included in the Council's reasons for refusal and I have no reason to reach a different view based on the evidence before me. Whilst I have taken these matters into consideration neither alone nor in combination do they amount to a reason to dismiss the appeal. The layout of the development allows for acceptable separation distances from the neighbouring properties. Trees and hedges to be retained on the site boundaries, and new planting and fencing, would further mitigate the effects on the neighbours' living conditions. The effects of the construction phase of the development would be temporary and could be appropriately dealt with by way of a construction method statement. There is no substantive evidence before me to show that the proposal would increase flood risk, or be harmful to ecology subject to the mitigation measures and biodiversity enhancements contained in the Ecological Appraisal.
25. I understand that planning permission was refused for residential development on the site in 1988. That decision was a considerable time ago prior to present local and national planning policies, and at the time the site was a proposed open space. It is not a designated open space in the current Local Plan.
26. Mansfield Woodhouse Conservation Area (CA) adjoins the eastern boundary of the site. The proposed dwellings would be set away from the CA boundary with a wide landscaped green space to be formed between the development and the CA. The existing mature trees on the eastern site boundary and landscaping on the site's green edge would soften the development's impact to the extent that the setting of the CA would be preserved, though appearance and landscaping are to be considered at the reserved matters stage.
27. I am satisfied that the provisions of the UU, including contributions to affordable housing provision, open space, off site highway works and bus stop improvements, together with the establishment of a management company, are necessary to make the development acceptable, are directly related to the development and fairly and reasonably related in scale and kind. The obligations meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Framework paragraph 57.

Planning Balance

28. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, 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 found that the proposed development would not be harmful to pedestrian safety, including that of children accessing the nearby school. However, I have also found that the gradient of parts of the proposed access road and pavements would not meet current standards and would be steep to use for pedestrians and people with mobility difficulties. As such I find there would be limited conflict with Policies P3 and IN9 of the Local Plan. The proposal would not, however, conflict with paragraph 115 of the Framework.

29. These factors have to be balanced against the benefits of the development. There would be considerable social and economic benefits arising from the development, including 12 new residential units, employment opportunities during the construction phase and spending in the local area by future residents. I am also mindful that the Framework seeks to significantly boost the supply of housing. When the Framework is read as a whole, I find that the balance of considerations supports the proposal and outweighs the limited conflict with the development plan.

Conditions

30. I have had regard to the conditions recommended by the Council which I have considered in light of government guidance. Conditions specifying the time limit for submission of the reserved matters and commencement of the development, are necessary to provide certainty. In addition, a condition requiring the development to be carried out in accordance with the approved plans is necessary, for the avoidance of doubt.
31. In order to protect the living conditions of neighbouring occupiers and highway safety, I have included a condition requiring the submission and approval of a construction method statement and a further condition controlling hours of construction and deliveries. I have attached conditions relating to the submission of details of the external works layout, construction of the access road and footways and provision of the parking spaces, in the interests of highway safety.
32. In the interests of the living conditions of future occupiers and the character and appearance of the area, I have included a condition requiring that the reserved matters application is accompanied by details of floor plans of the dwellings, specification of signage at the junction with Church Hill Avenue, electric vehicle charging points, cycle and bin storage/collection facilities, sustainable design features, scale of the dwellings, and secured by design. For the same reasons, conditions are also necessary to approve the external materials and details of finished floor levels and boundary treatment.
33. Conditions requiring a surface water drainage scheme and plans for the disposal of surface water are necessary to manage risk of flooding and ensure that the development meets surface water and foul disposal requirements.
34. A number of conditions are necessary in order to safeguard biodiversity and trees, including the requirement for a method statement for the removal and management of invasive species, a landscape and ecological management plan and a lighting strategy. I have not included the Council's condition relating to landscaping as these details would be provided with the reserved matters.

Conclusion

35. For the above reasons, I conclude that the appeal should be allowed subject to the conditions below.

M Ollerenshaw

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance and landscaping (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.
- 2) Application(s) for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission, and the development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 22-2398-LP, Illustrative Site Layout 22-2398-(02)-001-Rev C, Car Parking 22-2398-(02)-002-Rev C, Scale and Massing 22-2398-(02)-003-Rev B, Street Elevation 22-2398-(02)-004, Drainage Layout 5936-DR-01-Rev P5, External Works Layout 5936-EW-01-Rev P2, External Works Sections 5936-EW-02-Rev P1, Detailed Access Layout 5936-EW-03-Rev P4, Detailed Access Layout ADC 2917-DR-001-Rev P4, Swept Path Analysis (Access) ADC 2917-DR-002-Rev P3 and Swept Path Analysis (Turning Head) ADC 2917-DR-003-Rev P3 (other than in respect of any details given of reserved matters).
- 4) Any reserved matters application pursuant to this outline consent shall incorporate the following details and information:
 - i) detailed floor plans of the dwellings, including confirmation that each unit, including house type B would accord with the minimum internal space standards set out in the Nationally Described Space Standards;
 - ii) details of the location and specification of signage at the junction with Church Hill Avenue, confirming that the internal access road is private;
 - iii) specification and details of electric vehicle charging points identified in the positions shown on the approved car parking plan, cycle and bin storage/collection facilities for each dwelling;
 - iv) full details of the sustainable design of the dwellings, in accordance with Policy P5 of the Mansfield District Local Plan;
 - v) the scale of the dwellings shall be restricted to 2-2.5 storeys in height; and
 - vi) set out how the proposed development would accord with Secured by Design Standards.
- 5) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking areas of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control noise, vibration and dust emissions;

- v) wheel washing facilities;
- vi) the routing of deliveries and construction vehicles to site and any temporary access points;
- vii) secure fencing during construction works;
- viii) waste management for the construction phase;
- ix) measures to control knotweed;
- x) all site clearance, demolition and construction works to follow the recommendations and mitigation measures contained in the Ecological Appraisal, Bat Survey & Baseline BNG Assessment Ref: 1613_02_rep_ml.docx, prepared by Baker Consultants.

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

- 6) No development shall take place until details of the site access work including footway improvements as shown indicatively on External Works Layout Drawing No. 5936-EW-01 Rev P2 have been submitted to and approved in writing by the local planning authority. The works shall thereafter be implemented in accordance with the approved details, and no dwelling shall be occupied until the works are completed.
- 7) No development shall take place until the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved levels.
- 8) No development shall take place until a detailed surface water drainage scheme for the site, based on the principles set out in the Flood Risk Assessment (FRA) and Drainage Strategy 5936/DS01, August 2022, Keith Simpson Associates Ltd., has been submitted to and approved in writing by the local planning authority in consultation with the Lead Local Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:
 - i) demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that the design is in accordance with CIRIA C753;
 - ii) limit the discharge generated by all rainfall events up to the 100 year plus 40% (climate change) critical rain storm to QBar rates for the developable area;
 - iii) provide detailed design (plans, network details, calculations and supporting summary documentation) in support of any surface water drainage scheme, including details on any attenuation system, the outfall arrangements and any private drainage assets. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods: no surcharge shown in a 1 in 1 year; no flooding shown in a 1 in 30 year; and for all exceedance to be contained within the site boundary without flooding properties in a 100 year plus 40% storm;

- iv) evidence to demonstrate the viability (e.g condition, capacity and positive onward connection) of any receiving watercourse to accept and convey all surface water from the site;
 - v) details of Severn Trent Water approval for connections to existing network and any adoption of site drainage infrastructure;
 - vi) evidence of approval for drainage infrastructure crossing third party land where applicable;
 - vii) provide a surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site;
 - viii) evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.
- 9) No development shall take place until a Landscape and Ecological Management Plan including the ecological mitigation and biodiversity enhancement measures referred to in the Ecological Appraisal, Bat Survey & Baseline BNG Assessment Ref: 1613_02_rep_ml.docx, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Landscape and Ecological Management Plan.
- 10) No development shall take place until a methodology for the removal/eradication of invasive species on the site has been submitted to and approved in writing by the local planning authority. Development shall proceed in accordance with the approved methodology prior to the commencement of development.
- 11) No development shall take place until an external lighting strategy for the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved external lighting strategy.
- 12) No development above ground level shall take place until details of all fences, walls and enclosures, both within and along the boundaries of the site, including the new fence/hedgerow to be erected/planted adjacent to No 19 Church Hill Avenue, have been submitted to and approved in writing by the local planning authority. The approved fences, walls and enclosures within and along the boundaries of the site shall be erected before the first occupation of the dwellings.
- 13) No development above ground level shall take place until a scheme for the disposal of surface water and foul sewage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full before the development is first brought into use.
- 14) No development above ground level shall take place until details of the materials to be used for the external surfaces of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 15) No demolition/site clearance works of the existing brick stable block shall take place until further bat roost characterisation surveys have been undertaken on the building during the peak bat active season (May – August inclusive).
- 16) The development hereby approved shall be carried out in accordance with the Arboricultural Impact Assessment and Arboricultural Method Statement by Weddle Landscape Design received on 03 July 2023, including the tree protection measures contained therein, unless otherwise agreed in writing with the local planning authority.
- 17) The dwellings hereby approved shall not be occupied until the associated vehicle parking spaces have been provided in accordance with the approved plans. The parking spaces shall be retained for the lifetime of the development.
- 18) No part of the development hereby approved shall be occupied until the residential road and footways (including infrastructure such as drains, lighting, utilities, and associated structures), have been completed to at least binder course level.
- 19) Construction works and delivery of materials shall take place only between 08.00-18.00 hours on Monday-Friday, 08.00-13.00 hours on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.