



Appeal Decision

Site visit made on 29 January 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th February 2025

Appeal Ref: APP/H1840/W/24/3349752

Yew Tree Court, Norton Road, Norton, Worcester, Worcestershire WR5 2PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Douglas of CDC Bespoke Properties Limited against the decision of Wychavon District Council.
 - The application Ref is W/23/01836/FUL.
 - The development proposed is construction of 2 No. dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 2. No dwellings at Yew Tree Court, Norton Road, Norton, Worcester, Worcestershire WR5 2PD in accordance with the terms of the application, Ref W/23/01836/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs has been made by Mr Carl Douglas of CDC Bespoke Properties Limited against the Council. This is subject to a separate decision.

Preliminary Matters

3. In December 2024, a revised version of the National Planning Policy Framework (the Framework) was published. The main parties were given opportunity to comment on the updated Framework. I have had regard to such and any comments received thereto in reaching my decision.

Main Issue

4. The main issue is the impact on highway safety, in particular regard to visibility splays.

Reasons

5. Yew Tree Court is an existing private drive serving 4 dwellings with an established access onto Norton Road. Norton Road is a main road with a 40mph speed limit at the point where Yew Tree Court joins it. Although, a speed survey undertaken on Norton Road demonstrates that the 85th percentile traffic speed is greater than 40mph. In view of the speed of traffic and characteristics of Norton Road, the Council assert that the Design Manual for Roads and Bridges (DMRB) as opposed to Manual for Streets (MfS) standard for the visibility splay should be used. The DMRB standard visibility splay cannot be achieved in one direction without crossing third party land, which is outside the control of the appellant.

6. Planning permission for the existing dwellings in Yew Tree Court (ref W/02/10001/OU) was granted subject to a condition to provide a 2m x 120m visibility splay. The access is currently in use serving 4 dwellings and no substantive evidence has been provided to demonstrate it is unsafe, even if it does not meet the DMRB standard in terms of visibility. Furthermore, although the proposed development would introduce more traffic using the existing access, this would not be significant for 2 dwellings.
7. While the Worcester County Council's adopted design guide entitled Streetscape Design Guide (July 2022) does not preclude the use of the DMRB standards in certain circumstances when considering vehicle visibility splays. The DMRB standards for visibility set higher and more stringent standards than MfS. If MfS standards were applied for a 40mph speed limit, the visibility splay requirement would be much less than the DMRB requirement. Furthermore, it has been demonstrated that a visibility splay which exceeds the required MfS distance standard could be achieved, even without third party land.
8. From my site observations, there is good forward visibility for vehicles approaching from the south, due to the relatively straight alignment of the road. Also, any driver on egress from Yew Tree Court and turning left would not have oncoming vehicles traveling from the south along the kerb line of Norton Road, rather vehicles would be on the far side carriageway. At the time of my site visit, I observed there is currently good visibility of oncoming vehicles from the Yew Tree Court egress for some distance. Additionally, evidence provided demonstrates that on the occasion where vehicles overtaking slow moving vehicles in the far side carriageway from the south, such approaching drivers travelling along Norton Road or those emerging from Yew Tree Court, would be afforded sufficient visibility to allow stopping time to avoid collision.
9. In view of the above, while the proposed visibility splay would not meet the DMRB standards in one direction, in the context of the existing access and circumstances and, that the MfS standards would be exceeded, an acceptable level of visibility would be achieved and so, safe and suitable access would be provided to the appeal site.
10. Therefore, the proposal would not have an unacceptable impact on highway safety and there would be no conflict with Policies SWDP 4 and SWDP 21 of the South Worcester Development Plan (February 2016) (SWDP), which amongst other matters, require development proposals to be able to access the highway safely.

Other Matters

11. The site lies within 4km of the Lyppard Grange Ponds Special Area of Conservation (SAC), with its primary reason for selection being Great Crested Newts (GCN). The appeal site forms part of a wider site that is allocated for development within the SWDP. A Habitats Regulation Assessment and Appropriate Assessment has been carried out in relation to the site allocation. The appeal site is small, some distance from the SAC with intervening land that forms part of the wider development plan allocation. Therefore, having regard to the evidence provided, the qualifying features of the SAC, small scale of the proposed development, intervening development and lack of connectivity, I am satisfied that there would be no likely significant effects on the qualifying features of the European site that would

undermine its conservation objectives, either alone or in combination with other plans or projects.

12. Concerns have been raised about the effect on the living conditions of neighbouring occupiers. However, there would be sufficient distance separation between the proposed dwellings and neighbouring properties, so as to avoid harmful loss of light, outlook and overshadowing to neighbouring occupiers. Also, noise, dust, and disturbance caused by the construction of the development, would be limited. Even though Yew Tree Court is fairly narrow and without footpaths, no substantive evidence has been provided to demonstrate that two additional dwellings using it, would cause harm to pedestrians or other users. Furthermore, matters related to property values and maintenance of the private drive would fall outside the planning process.
13. The appeal site is within Flood Zone 1 and so is in an area at low risk of surface water flooding. Furthermore, the submitted Water Management Statement sets out how drainage for the proposed development will be managed, which can be suitably secured via condition.
14. Although there would be some vegetation and tree removal within the appeal site, the Arboricultural Impact Assessment does not suggest this would affect any protected or important trees. Suitable replacement planting could be secured via condition as part of a landscaping scheme and certain trees and hedges retained and protected via condition also. In terms of the effect on wildlife and loss of habitats, including impact on protected species, a Preliminary Ecological Appraisal and Reptile Survey Report have been provided. These set out that subject to mitigation, the proposal would have no harmful impact on wildlife and habitats. Such mitigation could be suitably controlled via condition.
15. Concerns have been raised about limited bus services nearby and so, occupiers of the development would be reliant on private cars and, that there is no need for housing and there would be a loss of green space. Although, the appeal site is within an area allocated for development within the SWDP and I observed during my site visit, there are bus stops nearby. Furthermore, the design, scale and density of the proposed dwellings would be in keeping with that of others in the surrounding area. Additionally, as the Council cannot demonstrate a 5 year housing land supply, there is demand for additional housing in the district in order to meet government's objective of significantly boosting the supply of homes.

Conditions

16. Having regard to the advice contained within the Planning Practice Guidance (PPG) and the Framework, I have considered the conditions suggested by the Council and subsequent appellants' comments on such. I have also considered the need for other conditions having regard to the representations made by consultees.
17. In addition to the standard implementation condition, it would be necessary for the avoidance of doubt and in the interests of certainty to define the plans with which the scheme should accord. As referred to above, conditions are necessary, in relation to landscaping, ecology and water management. This includes the need for details of any external lighting to be submitted and agreed, to protect wildlife interests and that tree protection measures are put in place before development commences in relation to any trees or hedges to be retained as part of the development. Also, as set out in the recommendations in the Preliminary Ecological

Appraisal, a detailed Ecological Mitigation and Enhancement Strategy is needed and necessary in advance of development or site clearance commencing, as this relates to the early stages of the proposed development and, to ensure appropriate protection of habitats and protected species.

18. In the interests of highway safety, conditions are necessary to ensure the provision and retention of appropriate visibility splays at the access and that the dwellings are provided with appropriate parking and turning facilities. To ensure the external materials are in keeping with that of neighbouring properties, in the interests of protecting the character and appearance of the surrounding area, a condition regarding the external materials of the new dwellings is necessary.
19. As evidenced, the site is within close proximity to former military and historically asbestos contaminated land. Therefore, it is necessary that a contaminated land condition is included in any permission, to protect the living conditions of future occupiers of the new dwellings. To ensure the proposed development includes sustainable building measures and promotes sustainable means of travel, and so, provides environmental benefits aligned with policies contained in the SWDP. Conditions are necessary and reasonable to require cycle parking provision, electric vehicle charging points and that the new dwellings incorporate renewable and/or low carbon energy generation measures.
20. The Framework and PPG set out that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The proposed dwellings would be of sufficient distance from nearby dwellings so as to not cause harm to the living conditions of neighbouring occupiers and also, the design of the new dwellings and their plots are of reasonable size, comparable to that of nearby dwellings. Therefore, the removal of permitted development rights for any future alterations and extensions to the new dwellings would not be justified and so, would not meet the relevant tests for conditions in this instance.

Conclusion

21. For the reasons given above, the appeal would accord with the development plan read as a whole and there are no material considerations that indicate otherwise.
22. Accordingly, the appeal is allowed.

C Billings

INSPECTOR

See overleaf for Schedule of Conditions

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following plans: Dwg No 2023/54/01A Rev A, entitled Location Plan; Dwg No 2023/54/03A Rev A, entitled Site Plan as Proposed; Dwg No 2023/54/10, entitled Proposed Floor Plans Plot 1 (5 Yew Tree Court); Dwg No 2023/54/11A Rev A, entitled Proposed Elevations Plot 1 (5 Yew Tree Court); Dwg No 2023/54/20, entitled Proposed Floor Plans Plot 2 (6 Yew Tree Court); Dwg No 2023/54/21A Rev A, entitled Proposed Elevations Plot 2 (6 Yew Tree Court); Dwg No 2023/54/22A Rev A, entitled Proposed Garage Floor Plan and Elevations Plot 2 (6 Yew Tree Court); Dwg No BA35450523_01 entitled Topographical Survey; Dwg No 1114-SK6 Rev A entitled Assessment of Visibility Splays; Dwg No 114 SK7 entitled Construction Access Assessment; Dwg No 1114-SK8 entitled Assessment of Visibility; Dwg No 1114-SK9 entitled Splay without 3rd Party Land; Dwg No 2784-P-11 entitled Proposed Layout and Tree Removals; Dwg No 2784-P-12 entitled Tree Protection Plan.
3. The external surfaces of the development hereby permitted shall be constructed in the materials specified within the document entitled 'Materials List' including the following: Traditional Brick and Stone in Audley Antique facing bricks; Forticrete Gemini colour slate roof tiles; Semi-dry cast stone lintels and cills in colour 'Bath'; Class B red semi-engineering brickwork lintels and cills to side and rear elevations; UPVC white fenestration, facias and soffits; and UPVC black rainwater goods.
4. No development hereby permitted shall commence until the existing trees, shrubs and hedges on the site shown to be retained on the approved plans, have been protected by fencing constructed in accordance with BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations (or in an equivalent British Standard if replaced). The protection measures shall be retained in place until all the development and works are complete. Nothing shall be stored or placed, or ground levels altered within the protection fenced areas.
5. No development shall commence, or site clearance works be carried out until a detailed Ecological Mitigation and Enhancement scheme has been submitted to and approved in writing by the local planning authority. This shall be in accordance with the recommendation and conclusions set out in the Preliminary Ecological Appraisal (including third-party data search) Rev 01, May 2023, and the Reptile Survey Report Rev 01 dated August 2023. The mitigation and enhancement shall then be carried out in accordance with the approved Ecological Mitigation and Enhancement scheme. On completion of the scheme, the development shall be inspected by a qualified ecologist and a statement of conformity shall be submitted to and approved in writing by the local planning authority, to demonstrate all of the measures have been implemented in accordance with the approved scheme. The approved mitigation and enhancement scheme shall then be retained on site thereafter in accordance with agreed timescales.

6. If any contamination is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on that part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development or relevant part of the development shall not resume or continue until remediation and verification scheme have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Any required remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
7. Prior to the installation of any external lighting within the development, full details of the design, location and intensity of the lighting shall be submitted to and approved in writing by the local planning authority. The design of the lighting shall accord with the recommendations set out in the Preliminary Ecological Appraisal (including third-party data search) Rev 01, May 2023, and Bat Conservation Trust / Institution of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK. The submitted lighting plans should be accompanied by contour diagrams that demonstrates minimal levels of lighting on receptor habitats, including trees and hedges. The lighting installation shall then be carried out in accordance with the approved details and be retained as such for the lifetime of the development.
8. The development hereby permitted shall not be occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 120 metres to the north and 74m to the south measured along the nearside edge of the adjoining carriageway, as shown on drawing no. 1114-SK9 (south visibility). Nothing shall be planted, erected, and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility.
9. The development hereby permitted shall not be occupied until the turning area and parking facilities shown on Drawing 2023/54/03A have been provided. These areas shall thereafter be retained and kept available for their respective approved uses for the lifetime of the development.
10. Before the first occupation of each dwellinghouse hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and remain thereafter for the lifetime of the development.
11. Before the first occupation of each dwellinghouse hereby permitted, the dwelling shall be fitted with electric vehicle charging. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 (or as amended) and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

12. Before the first occupation of each dwellinghouse hereby permitted, the dwelling shall be provided with sheltered and secure cycle parking, in accordance with details first submitted to and approved in writing by the local planning authority. Thereafter the approved cycle parking shall be kept available for the parking of bicycles for the lifetime of the development.
13. Prior to installation, details of renewable and/or low carbon energy generation measures shall be submitted to and approved in writing by the local planning authority. The measures shall contribute to at least 10% of the predicted energy requirements of the development. The details to be submitted shall include the overall predicted energy requirement of the approved development; the predicted energy generation from the proposed renewable/low carbon energy measures; and an implementation timetable for the proposed measures. The development shall be carried out in accordance with the approved details.
14. Before the first occupation of each dwellinghouse hereby permitted, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The landscape scheme shall provide for maximum biodiversity design and include the following:
 - i. a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each hedge, the accurate position and species;
 - ii. a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas;
 - iii. a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants;
 - iv. a written specification outlining cultivation and other operations associated with plant and grass establishment; and,
 - v. a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved landscaping scheme in the first planting and seeding/turfing seasons following the completion or first occupation of the respective dwelling it is to serve, whichever is the sooner.

15. Any trees or plants planted as part of the approved landscaping scheme, pursuant to condition 14 which, within a period of five years from the completion of the planting, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

End of Schedule