



Appeal Decision

Site visit made on 19 February 2025

by **D Cleary MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Appeal Ref: APP/J3720W/24/3353883

Forge Close, Stratford-upon-Avon, Warwickshire CV37 6FN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Guy Norris against the decision of Stratford-on-Avon District Council.
 - The application Ref 24/01368/VARY was approved on 11 October 2024 and planning permission was granted subject to conditions.
 - The development permitted is the Removal of condition No.5 (waste collection strategy) of planning permission 22/02434/VARY dated 24 June 2024. Original description of development: Variation of condition 2, 8 and 11 of planning permission 20/02374/FUL dated 26 February 2021 to regularise the permission and design of the development to be as built and revised landscaping. Original Description of Development: Proposed residential development for 8 houses and associated landscaping.
 - The condition in dispute is No 5 which states that:
The development hereby permitted shall be carried out in strict accordance with the submitted Waste Collection Strategy approved by DISCN/00485/21 unless an alternative waste collection strategy is first submitted to and agreed in writing by the Council. At no time shall the development be occupied other than in accordance with DISCN/00485/21 or a waste strategy approved in accordance with this condition.
Notwithstanding the details approved by DISCN/00485/21, A Waste Collection Strategy may be submitted to and approved in writing by the Local Planning Authority from time to time as required. For the duration of the development, the dwellings hereby approved shall be occupied, and regular waste shall be managed and collected on site, only in accordance with the details contained within an approved Waste Collection Strategy.
 - The reason given for the condition is:
The condition is necessary because the development proposes private waste collection. It ensures that the development is served by sufficient and appropriate waste collection arrangements for the duration of the development in the interests of highway safety and the amenities of the future occupiers of the scheme in accordance with the aims of Policies CS.9 and CS.26 of the Stratford-on-Avon District Council Core Strategy 2011-2031 and Policy BE5 of the Stratford-upon-Avon Neighbourhood Development Plan 2011-2031.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address in the application form, decision notice and appeal form all refer to No.3 Forge Close. However, it is clear from the plans and my observations on site that the appeal relates to the whole of the housing development (known as Forge Close). I have therefore amended the address in the banner above to reflect this.
3. The application which is the subject of this appeal (24/01368/VARY) sought permission to remove condition No.5 attached to planning permission 22/02434/VARY. The Council, in making their decision, did not remove the

condition nor did they refuse the application. Instead, they granted planning permission with the condition in place, albeit in a varied form. The appeal form, at Part F, indicates that the appeal is made because the Council “Refused permission to vary or remove a condition(s)”. As the Council did not refuse planning permission this is technically incorrect. Nonetheless, it is clear from submissions that the appellant is aggrieved by the imposition of Condition 5. Therefore, I have proceeded with the appeal on the basis that the Council have granted planning permission for a development subject to conditions to which the appellant objects. Both parties have made submissions on the condition in dispute and, therefore, I do not consider that either party is prejudiced by me taking this approach.

4. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party’s interests have been prejudiced by taking this approach.

Background and Main Issue

5. The appeal site has an extensive planning history for the construction of a residential development comprising 8 dwellings. From the information before me, planning permission was initially granted for the construction of a housing development in 2021¹ (the original permission). This permission was subject to condition No.7, which required details of a Waste Collection Strategy (the WCS) to be submitted to, and approved by, the Council. Details of a WCS were submitted to the Council under an application for the approval of details subject to condition². This detail was subsequently approved.
6. The original permission was then varied in June 2024 to make amendments to the approved development³ (the second permission). The second permission included condition No.5 which required compliance with the approved WCS. Although that condition allowed for details of an alternative WCS to be submitted to the Council for consideration if required.
7. Finally, permission was sought to remove condition 5 attached to the second permission. Planning permission was subsequently granted⁴ (the third permission) although the WCS condition was not removed. Instead, the condition was reimposed and varied with alternative wording.
8. It is the third permission which is the subject of this appeal and, specifically, the imposition of condition No.5 relating to a WCS. The reason for the condition sets out that it was imposed in the interests of highway safety and the amenities of the future occupiers of the development. Therefore, the main issue is the effect of removing the condition on highway safety and the living conditions of occupants of Forge Close with particular regard to disturbance.

Reasons

9. The appeal site relates to a recently constructed housing development, comprising 8 dwellings, located on land to the rear of Mansell Street. The development

¹ 20/02374/FUL

² DISCN/00485/21

³ 22/02434/VARY

⁴ 24/01368/VARY

consists of two rows of terraced properties which face towards a central courtyard which provides dedicated off-street parking and vehicular manoeuvring space. The site is accessed via a road off Mansell Street. The access road is single width and is flanked by tall fencing and brick walls for its length. At the junction with Mansell Street the access is flanked on one side by a two-storey gable elevation of a dwelling and on the other side by tall brick wall. These are positioned at the back of a narrow pavement. An electric gate is positioned at the end of the access road. The existing bin stores are located close to this gated entrance.

10. Access to the site is heavily constrained on both side due to the proximity of an adjacent dwelling and tall brick wall. These are both on third party land. The width of the access road is also very narrow. These constraints mean that access to the site for large vehicles would be extremely difficult. Furthermore, the space available for on site manoeuvring is also limited for large vehicles, which adds a further constraint to waste collection at the site. In such circumstances, I consider that it was wholly reasonable for the Council to require the submission of an appropriate WCS to be agreed and for the site to operate in accordance with that WCS. This ensures that safe and convenient arrangements can be provided which are in the interests of highway safety and reduces the potential for disturbance to occupants of the development.
11. I note that the appellants comments regarding the statutory obligations of the Council to provide waste collection. However, the evidence before me suggests that there are clear exceptions to these obligations. Nonetheless, the appellants submission indicates that a solution has now been agreed with the Council⁵. This agreement appears to enable waste collections to be made by the Councils own contractors. This is clearly a positive step forward for the appellant, the Council and occupants of the development.
12. Nonetheless, I consider that full details of any agreed arrangements ought to be formally submitted to the Local Planning Authority for approval through the imposed condition. This is what the condition requires and allows for. This would ensure that the wording of any revised WCS arrangements (including plans to show where and how collections would occur) can be formally reviewed by the Local Planning Authority (the LPA). The LPA would need to ensure that any amended WCS is acceptable in all other respects, and that the arrangements do not lead to other highway safety or living condition implications. The condition does not specifically stipulate that the WCS needs to be a private/commercial arrangement. Therefore, a revised WCS could include agreed arrangements with another department of the Council. The wording of the condition, as drafted, allows for this process to occur and any new WCS, if approved, could supersede the extant approved scheme.
13. Furthermore, it would be necessary for the condition to remain in perpetuity to ensure that there is no deviation from any approved WCS which would enable the arrangements to be enforced. This is wholly reasonable and in my experience is not at all an uncommon approach, particularly on such a constrained site where conventional access cannot be provided. In addition, the condition, as worded, would allow for further WCS's to be submitted should it be found that more suitable or convenient solutions are forthcoming in the future.

⁵ Attachment 17(i) – Letter dated 13 March 2024

14. The condition is necessary, relevant, and reasonable as it is required in order to provide safe and convenient waste collection on a constrained site. This is in the interest of highway safety and the living conditions of occupants of the development. Furthermore, the wording of the condition is also sufficiently precise and enforceable. Therefore, I consider that the condition meets the relevant tests.
15. For the above reasons, I conclude that the removal of the condition could have a harmful effect on highway safety and the living conditions of occupants of Forge Close through disturbance. Therefore, the removal of the condition would result in a development which would be contrary to Policy CS.26 of the Stratford-on-Avon District Core Strategy 2011-2031 (the CS), which states that development should mitigate against any unacceptable traffic impacts and that the traffic generated is appropriate for the function and standard of roads serving the area. The removal of the condition would also result in a development which would be contrary to Policy CS.9 of the CS and BE.5 of the Stratford-upon-Avon Neighbourhood Development Plan. Together, amongst other things, these seek to deliver development which is of a high quality.

Conclusion

16. For the reasons given above the appeal should be dismissed.

D Cleary

INSPECTOR