



Appeal Decision

Site visit made on 12 August 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2025

Appeal Ref: APP/U4610/W/24/3349666

5 Ten Shilling Drive, Coventry CV4 8GZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Jagjot Gill against the decision of Coventry City Council.
 - The application Ref PL/2023/0001293/RVC, dated 21 June 2023, was refused by notice dated 8 February 2024.
 - The application sought planning permission for residential development without complying with a condition attached to planning permission Ref 49734, dated 28 March 2002.
 - The condition in dispute is No 13 which states that: The existing reservation located adjacent to the eastern boundary of the site shall be retained at a width of 7 metre in full accordance with the details indicated on the approved plan No. SA-3B and shall not be removed or altered in any way without the prior written approval of the local planning authority.
 - The reason given for the condition is: To ensure the satisfactory appearance of the footpath in accordance with Policy AM8 of the Coventry Development Plan 2001.
-

Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The planning application leading to this appeal in effect seeks a new planning permission for a residential development originally granted in 2002 but subject to a modified version of condition no 13. The application form and the Council's decision notice gives the original planning permission reference number as R/2001/5249. However, the appellant has confirmed the correct planning permission reference number should be 49734 as stated in the header above. This reference number is consistent with that provided on the decision notice dated 28 March 2002 and submitted with the appeal. The residential development granted under the original planning permission has been completed.
3. As it stands, the disputed condition requires the retention of a 7m wide reservation strip of land on the eastern boundary of the housing scheme. As part of the appeal submissions the appellant has provided drawings and statements that were not with the Council at the time of its decision. With reference to the revised and additional plans, paragraph 3.2 of the appellant's appeal statement proposes the following revised wording to the disputed condition:-

"The existing reservation located adjacent to the eastern boundary of the site shall be retained at a width of 3 metres in full accordance with the details indicated on the approved plan No. 20.02.GA.502f ('Footpath Reservation Plan') and the details of the landscaping proposal on the approved plan No.

1970/095/PL01, and shall not be removed or altered in any way without the prior written approval of the local planning authority.”

4. This is different to the proposal as originally presented to the Council and upon which it made its decision. However, the Council has had the opportunity to comment on the appellant's revised proposal through the appeal process. I am satisfied no injustice would be caused by basing my assessment on the proposed modified version of condition 13 as set out above.
5. The appeal site address (No 5) is a dwelling that lies on the eastern boundary of the housing development and near to Westwood Heath Road. The footpath reservation plan referred to in the proposed condition shows the 7m wide reservation strip leading along the side and rear boundaries of residences on Ten Shilling Drive. However, it shows the strip narrowing to a width of 3m for a stretch alongside No 5. The landscaping proposals plan indicates the line of an existing public path within the reservation and a strip of wildflowers, lawn and turf between this footway and a fence along a boundary with No 5's garden area.
6. On my visit I saw a fence erected along No 5's side boundary, seemingly in the same location as the "current fence position" as indicated on the landscape proposals plan. For clarity purposes, I confirm my assessment is made on the basis that the proposed condition would require the fence to be re-positioned so as to provide a 3m wide reservation strip.
7. The appeal submissions highlight a dispute between the Council and the appellant as to the width of the defined public right of way that lies within the reservation area. It is not in my remit in the determination of this appeal to arrive at a firm conclusion on this matter. However, it is evident from the submissions that the appellant and the Council agree that a public footpath exists within the reservation strip, at least within the stretch adjoining No 5.

Main Issues

8. The main issues are whether the disputed condition as it stands is necessary and reasonable having regard to policies on green infrastructure and the effect of the proposed condition on the reservation strip and the setting to the footpath.

Reasons

9. Policy GE1 of the Council's Local Plan adopted December 2017 (the LP) sets out the intention to protect green infrastructure. Part 4 of the policy requires justification for development that is likely to adversely affect the integrity of a green corridor. Part 5 sets out the aim to continue to develop a network of green space including paths.
10. If the disputed condition is adhered to it would result in a 7m wide strip of land free of development alongside the adjacent gardens. A large part of the reservation adjoining No 5 has already been incorporated within the garden area of the house and cleared of vegetation. Nonetheless, parts of the reservation remain beyond garden boundaries, including land immediately to the north of No 5. This adjoining land has a significant natural feel as it is covered in seemingly unmanaged vegetation. Condition 13 does not require the reservation strip to be maintained in any particular manner. As such, it is fair to envisage that it may be left unmanaged and allowed to vegetate naturally, although there would be an obligation to keep

the footpath unobstructed. Therefore, the disputed condition has the likely effect of creating a green corridor along the eastern edge of the housing development.

11. The proposed modification to condition 13 would authorise a marked reduction in the width of a significant stretch of the reservation strip. Such a change would harm the integrity of a green corridor by reducing its size and its scope to accommodate vegetation, either naturally occurring or deliberately planted. The planting as indicated on the landscaping proposals plan would be secured by the proposed condition. However, this would be a relatively narrow strip compared to the area that would be lost from the reservation. Also, I am unconvinced the proposed planting would improve the quality of green infrastructure as a reservation of 7m width could provide a larger area of vegetation, such as that which exists on the land to the north.
12. The disputed condition also fulfils a function in preserving an undeveloped setting to the public right of way. On my visit, I saw the path is overgrown and impassable and so it does not provide an attractive connection for walkers. However, it would be inappropriate to assume that this would always be the case, particularly bearing in mind that the appellant accepts a public right of way exists to the side of No 5. The footpath is not currently well maintained and it lies across private land but this does not negate the legal responsibilities to keep it clear of obstruction. If cleared, the footpath could provide an attractive link for walkers from Westwood Heath Road to the entrance to the employment area to the east and open land further to the north. In these regards, the path promotes exercise, health and well-being.
13. The proposed condition would maintain the route for the footpath and a space for landscaping to the side if it is confirmed as being 1m wide. However, even if the appellant's contentions on the width of the footpath are accepted, the proposed fence would be only 2m from the edge of the right of way. On the same basis in terms of the footpath width, condition 13 as it stands would allow a gap of 6m. Therefore, the proposed condition would lead to a significant reduction in the undeveloped land to the side of the path and a subsequent sense of enclosure. The proposed planting scheme would not address nor override the harm caused to the attractiveness of the footpath due to this tunnelling effect.
14. Moreover, it seems likely that the narrowing of the reservation and positioning of a fence as shown on the landscape proposals plan would reduce visibility of the footpath from the windows in No 5 and the adjacent dwelling to the north. This again would undermine the attractiveness of the path as it would feel less overlooked and so unsafe to some walkers. I am referred to Secured By Design Guidance that states isolated footpaths should be 3m wide. However, the proposal would not accord with this advice as the footpath is shown as being 1m wide on the landscape proposals plan. I am taken to no prescriptive guidance on the width of gaps or landscaping to the side of footpaths to ensure they feel safe.
15. The appellant is concerned that maintaining a 7m reservation would allow its use by vehicles. However, measures to prevent vehicular access could be provided without reducing the reservation's width. Also, concerns have been raised from an interested party that maintaining the footpath allows a potential route for unauthorised entry onto neighbouring residential properties. However, the proposed condition would not extinguish the public right of way and so it would have no effect in these regards.

16. The appellant claims the proposed condition and the landscaping proposals would enhance biodiversity. However, no biodiversity metric has been provided to support this claim. Moreover, it is unclear how much biodiversity value the land to the side of No 5 possessed before the clearance works that have already taken place. Also, no comparison has been carried out that assesses the landscape proposals against the likely biodiversity value of a 7m wide reservation strip as required by the disputed condition. Therefore, I attach limited weight to the appellant's contentions in these regards.
17. I appreciate the reservation strip to the side of No 5 is privately owned and that the proposed condition would enable the owners of the house to increase the size of their garden. However, No 5's garden is of an adequate size even when discounting the land that has already been incorporated from the reservation. Moreover, a requirement to simply retain the reservation strip does not place an unreasonable burden on the appellant.
18. I am taken to no planning policy that specifically requires the provision of a 7m wide reservation. However, for the reasons given above, I find the reservation at this width serves useful planning purposes. As such, I conclude that condition no 13 as it stands is necessary and reasonable. The proposed modification of the disputed condition would undermine planning purposes and would be contrary to LP policies GE1, DE1 and AC4. Together these seek to ensure development maintains green infrastructure and incorporates safe access routes.

Conclusion

19. For the reasons given above, the appeal should be dismissed.

Jonathan Edwards

INSPECTOR