



The Planning Inspectorate

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Christine Sarris
Ashfield District Council
Council Offices
Urban Road
Kirkby-In-Ashfield
Nottingham
NG17 8DA

Your Ref: V/2020/0030
Our Ref: APP/W3005/W/21/3267864

14 July 2021

Dear Christine Sarris,

Town and Country Planning Act 1990
Appeal by Mr Ernie Clements
Site Address: 26 Brickyard, Brickyard Drive, Hucknall, Nottinghamshire, NG15
7PG

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/>

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Alison Kendall

Alison Kendall

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>



Appeal Decision

Site Visit made on 24 May 2021

by **M Ollerenshaw BSc (Hons) MTPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 July 2021

Appeal Ref: **APP/W3005/W/21/3267864**

26 Brickyard, Brickyard Drive, Hucknall, Nottingham NG15 7PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ernie Clements against the decision of Ashfield District Council.
 - The application Ref V/2020/0030, dated 17 February 2020, was refused by notice dated 28 July 2020.
 - The development proposed is a new build house.
-

Decision

1. The appeal is allowed and planning permission is granted for a new build house at 26 Brickyard, Brickyard Drive, Hucknall, Nottingham NG15 7PG in accordance with the terms of the application, Ref V/2020/0030, dated 17 February 2020, subject to the following conditions set out in the schedule at the end of this decision.

Applications for costs

2. An application for costs was made by Mr Ernie Clements against Ashfield District Council which is the subject of a separate decision.

Procedural Matters

3. The appellant requested that the appeal be dealt with by way of an informal hearing. However, having considered the criteria contained in Annex K of the Procedural Guide to Planning Appeals, I consider that an informal hearing is not necessary in this case and that the written representations procedure is appropriate.

Main Issues

4. The main issues are: (i) The effect of the development proposed on the character and appearance of the area; (ii) whether the site would be a suitable location for the development proposed with regard to accessibility to public transport, and; (iii) the effect of the development on highway safety.

Reasons

Character and Appearance

5. Brickyard is a cul-de-sac accessed from Brickyard Drive via a level crossing over the railway line. The main body of the appeal site comprises a parcel of

land situated to the eastern side of Brickyard which forms part of a gap between No 16 to the south and No 26 to the north. It is currently used as a garden in association with No 26 and includes domestic outbuildings set further back into the site. To the north and east of the site is a large area of hardstanding and further outbuildings with an industrial estate beyond. A large pond is located to the south-east beyond the site boundary. Land to the west of Brickyard directly opposite the site generally has a more open character.

6. The eastern side of Brickyard is largely characterised by two-storey semi-detached and terraced dwellings. One of the defining characteristics of these properties is the relatively uniform building line that they present onto Brickyard with small front gardens and/or frontage parking. Towards the north end of Brickyard there are a small number of larger detached dwellings, including a bungalow, positioned within more spacious curtilages.
7. The proposal is for a large detached two storey dwelling (with accommodation within the roof space) which would be set back 5 metres from the road edge. The proposed dwelling would respect the front building line of the existing neighbouring properties on the north and south, with the exception of the proposed front gable feature, which would project slightly further forward and would not be harmful to the character of the street scene.
8. The footprint of the proposal would not be dissimilar in size to No 16 to the south, which has been extended, or those dwellings located towards the north end of Brickyard. Whilst I accept that the proposed dwelling would be of a substantial scale, it would sit comfortably within the large plot and, given the variation in the size and design of dwellings on Brickyard, it would not appear imposing or out of place with local character.
9. The materials of construction would comprise brick with a tiled roof which would be appropriate given that there are brick-built properties elsewhere on the road. There are dormer windows to other nearby properties, including No. 16, such that the dormer windows to the front and rear roof slopes of the proposed dwelling would not appear out of character with the area. The detached garage and car port would be set well back into the rear of the site and would not be a prominent feature of the street scene.
10. Taking the above factors in account, I therefore conclude that the proposal would not be harmful to the character and appearance of the area. Thus there would be no conflict with 'saved' policy ST1 b) of the Ashfield Local Plan Review (the Local Plan), adopted in November 2002, which, amongst other things, permits development where it would not adversely affect the character of the environment. It would also not be contrary to paragraph 127 of the National Planning Policy Framework (the Framework), which requires, amongst other matters, development to be sympathetic to local character.

Location

11. As noted, the site adjoins other residential properties and is within the main urban area of Hucknall, where, under the provisions of saved policy ST2 of

the Local Plan, the principle of development is acceptable providing no other material planning considerations indicate otherwise.

12. With regard to access to public transport, the appeal site is approximately 0.6km from Butler's Hill Tram Stop and approximately 1.4km away from both Hucknall Rail Station and a bus and coach station, which provide services to Nottingham and other large urban areas. The site is a shorter distance away from bus stops on Portland Road and Nottingham Road. I consider that these modes of public transport would be readily accessible from the site by either walking or cycling. Furthermore, the site is within relatively short walking distance of the services and facilities available within the centre of Hucknall, including those located on the high street.
13. For these reasons, I find that the appeal site would be a suitable location for the development proposed having regard to accessibility to public transport. Accordingly, I find that there would be no conflict with paragraph 108 of the Framework which advises that, in assessing applications for development it should be ensured that appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the development and its location.

Highway safety

14. Brickyard is an unadopted road and its surface is in poor condition in places with a number of potholes evident. Although the road is narrow in places, there are areas along its length where the width increases, such that two vehicles can pass one another safely. The majority of the existing properties on Brickyard are served by off-road parking spaces to front driveways or on land opposite the dwellings. However, at the time of my visit a number of vehicles were also parked on the road itself.
15. Due to the nature of the road, including its geometry, the condition of the surface, and its position relative to the level crossing, vehicle speeds are likely to be low. As part of a traffic survey undertaken by the appellant's highways consultant for a seven day period in December 2018, traffic flows and vehicle speeds on Brickyard were recorded as low. Whilst that survey is now some years old, it is unlikely that traffic flows on Brickyard would have changed significantly since that time. The appellant also refers to 'crashmap' evidence which suggests there have been no accidents on Brickyard or Brickyard Drive for the period between 1999 and 2019 and this has not been disputed by the Council. The evidence before me indicates that Brickyard has accommodated vehicle and pedestrian movements safely during this period.
16. Since the road is already used by a number of properties, I do not consider that in this context, the addition of the proposed dwelling would be likely to generate a significant increase in vehicle movements or lead to a conflict between vehicles and pedestrians, to the extent that highway or pedestrian safety would be compromised. I note that the Highway Authority did not object to the proposal in respect of its effect on the safe operation of the public highway.
17. The submitted site plan demonstrates that at least four cars could be parked on the driveway within the site and within the proposed garage/car port. That level of off-road parking would exceed the Council's minimum parking

requirements for a 4+ bedroom dwelling¹. With this provision of off-road parking, I consider that the proposal would be unlikely to result in any significant increase in parking on the road. A turning area is also identified which would enable vehicles to manoeuvre within the site and egress in a forward gear.

18. I understand that planning permission has been granted for a new dwelling on the western side of Brickyard² opposite the appeal site. I do not have the full details of that scheme before me. However, given my findings above, it is unlikely that the cumulative impacts on the road network arising from the consented scheme and the appeal proposal would be severe in the context of paragraph 109 of the Framework.
19. I note that Network Rail, whilst not objecting to the principle of the development, state that they have previously raised concerns over the continued development of this area and its impact on the safe operation of the level crossing through increased numbers of users and removal of space where large utility vehicles can turn. I consider that the addition of a single dwelling would not lead to such an intensification in the use of the crossing as to unacceptably affect its safe operation. Network Rail request provision of adequate off-road parking for all vehicles associated with the development and I have found that the proposal would be adequately served in this regard.
20. Any disruption caused during the construction phase of the development as a result of additional vehicle movements would be for a temporary period only and would be unlikely to be significant given the scale of the development proposed. Appropriate control could be exercised via the measures specified in the submitted Construction Management Plan.
21. In summary, I do not find that the proposal would be harmful to highway safety. The proposal would not conflict with saved policy ST1 c) of the Local Plan, which requires that development should not adversely affect highway safety or the capacity of the transport system. In addition, I do not find that there would be a conflict with the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

22. I have taken careful account of the representations of those nearby. Matters relating to the effect on the living conditions of neighbouring occupants, water supply, drainage and flooding, and oversubscription of local services do not form part of the Council's reason for refusal. I have no reason to disagree with these conclusions based on the evidence before me and my own observations on site. However, these are neutral matters and not benefits of the scheme. Neighbouring residents have also raised concerns around land ownership and about the condition of the road surface and the need for its ongoing maintenance. However, these are private matters between the parties and are not within the remit of my decision.

¹ Ashfield Residential Car Parking Standards Supplementary Planning Document 2014

² Council Ref. V/2019/0013

23. I have had regard to the appellant's argument regarding the Council's lack of a five year supply of deliverable housing land. Whilst the proposal would be beneficial in contributing towards housing provision in an area with an acknowledged shortfall, that is not significant in this instance given that I have reasoned above that no conflict would arise with the relevant provisions of the development plan or the Framework.

Conditions

24. The Council have not suggested any conditions in their statement. However, I have had regard to the 11 conditions recommended in the committee report. In imposing conditions I have had regard to the relevant tests in the Framework, Planning Practice Guidance and of statute. In that context I have modified the wording of some of the conditions recommended in the committee report without altering their fundamental aims.

25. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty. In the interests of the character and appearance of the area, conditions are required in relation to details of external materials and the details of landscaping and boundary treatments.

26. Details of drainage plans for the disposal of surface water and foul sewage are required by condition to secure the satisfactory drainage of the site. A condition relating to unexpected contamination would prevent any potential impacts on human health and the pollution of the environment. A condition to secure the implementation of measures for the protection of the proposed dwelling from noise from the railway and industrial activities is also required.

27. In the interests of highway safety, I have included a condition to require the provision of the parking spaces and turning area within the site prior to occupation of the development. A condition securing pedestrian visibility splays is also necessary in the interests of pedestrian safety. A condition for the implementation of the measures specified in the Construction Management Plan is also necessary in the interests of highway safety and protecting the living conditions of neighbouring occupiers.

Conclusion

28. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Mark Ollerenshaw

INSPECTOR

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 approved plans: Site Location Plan and RS/EC/27/10/19/01 Rev B.
- 3) No development shall take place above ground floor slab level until details/samples of the materials for all external surfaces of the development hereby permitted have been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) No development shall take place above ground floor slab level until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development, as well as:
 - i) planting plans with schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
 - ii) boundary treatments;
 - iii) hard surfacing materials;
 - iv) an implementation programme;
 - v) a scheme of maintenance.

The boundary treatments and hard surfacing materials element of the landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No development shall take place above ground floor slab level 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 prior to the first occupation of the dwelling and shall be retained as such for the lifetime of the development.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be

reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.

- 8) Prior to the first occupation of the development hereby permitted, the measures to protect the development from noise from the industrial estate and railway, as specified on drawing no. RS/EC/27/10/19/01 Rev B, shall be carried out in full and such works shall be thereafter retained for the lifetime of the development.
- 9) The development hereby permitted shall be carried out in accordance with the details in the approved Construction Management dated 26 March 2020, unless otherwise agreed in writing by the local planning authority.
- 10) Prior to the first occupation of the development hereby permitted, pedestrian visibility splays measuring 2m by 2m shall be provided to the vehicular access. These visibility splays shall not be obstructed by any object, vegetation or other obstruction of a height exceeding 0.6m above the adjoining road level for the lifetime of the development.
- 11) Prior to the first occupation of the development hereby permitted, the parking spaces and turning area shall have been laid out within the site in accordance with the approved drawings and surfaced in a permeable material. The parking spaces and turning area shall thereafter be kept available for parking and turning for the lifetime of the development.

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (General Permitted Development) (England) Order 2015
Town and Country Planning (Development Management Procedure) (England) Order 2015
Town and Country Planning (Control of Advertisements) (England) Regulations 2007
Town and Country Planning (Tree Preservation) England Regulations 2012
Planning (Listed Buildings and Conservation Areas Act 1990
Planning (Hazardous Substances) Act 1990
Planning and Compensation Act 1991

Refusal Notice

Full Planning Application

The application referred to below has been refused by Ashfield District Council.

Application Details

Planning Reference Number: **V/2020/0030**

Location of Development: **26 Brickyard, Brickyard Drive, Hucknall, Nottingham,
NG15 7PG**

Description of Development: **Dwelling**

Applicant Name: **Mr E Clements**

Date: **28/07/2020**

REASONS:

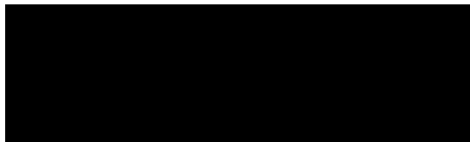
1. The proposed design of the dwelling in this location is considered to result in an imposing building out of character with the area. It is located on a private cul-de-sac which has limited width and poor surfacing with access gained over a level crossing in an unsustainable location with poor access to public transport. It would thus lead to Highway safety concerns during construction and with deliveries and visitors to the property when occupied. It is therefore contrary to policies ST1 (b), (c) and (e) and Chapters 9 and 12 of the National Planning Policy Framework 2019.

INFORMATIVE

For further detail on the decision please see the application report by contacting the Development Section on 01623 457388.

PROACTIVE WORKING

The processing of this application has been undertaken in accordance with the requirements of the National Planning Policy Framework 2018.



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PP.Carol Cooper-Smith
Interim Chief Executive

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.*
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:
28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.*
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.*
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK](#).