



Ashfield
DISTRICT COUNCIL

MAP SCALE 1: 1250
CREATED DATE: 17/11/2023

COMMITTEE DATE 06/12/2023 **WARD** Annesley and Kirkby
Woodhouse

APP REF V/2023/0219

APPLICANT Jason Taylor

PROPOSAL Dwelling and Associated Works

LOCATION Land Rear of, Cross Road, Annesley, Notts

WEB-LINK <https://www.google.com/maps/@53.075762,-1.2350444,19.54z?entry=ttu>

BACKGROUND PAPERS A, B, D, F

App Registered 16/05/2023

Expiry Date 10/07/2023

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee as it is a departure from the local plan.

The Application

The application seeks consent to erect a detached dwelling with detached garage. The application site comprises a plot of land identified as formal open space under policy RC3 of the ALPR (2002) and also forms part of the Annesley Conservation Area. To the north of the site is further formal open space with dwellings beyond, to the west are residential properties, to the south is a wooded area and to the east is a timber yard with residential properties beyond.

Consultations

Individual notification of surrounding residents have been sent out and the application advertised in the newspaper and on site, no comments have been received.

Severn Trent Water

- Disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse

available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water sewer by any means.

- For use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the company under S106 of the Water Industry Act 1991.
- Informative suggested.

NCC Highways

(1st comments)

- Land is lying fallow, with a new residential vehicular access proposed beside the timber yard.
- The design of the access should accord with that of a single dwelling in Part 3.1, of the revised Nottinghamshire Highway Design Guide. It will need to be a minimum width of 3.6m, accounting for boundary treatments, surfaced in a bound material with an appropriate means of surface water disposal thus to prevent runoff from discharging onto the public highway and have adequate visibility splays. The latter have yet to be demonstrated and need to be accounting for any proposed boundary treatments i.e., the front hedgerow. Nothing higher than 0.6m is permitted within visibility splays, and they need to be entirely in the ownership of the applicant and or existing highways extents.
- The dwelling is proposed to have 4 bedrooms on the first floor, therefore there is concern that the property as designed lacks sufficient off-street parking from the outset as it requires 3 off street spaces. The garage will only count as a space if it meets the minimum internal dimensions, and the current design of the driveway is such that vehicles would have to tandem park, which actively encourages drivers to park on street instead purely for convenience.
- No consideration has been given to cycle parking which should be a minimum of 4 spaces and or charging of an electric vehicle. Further guidance can be found in Part 4.1 of the revised NHDG.

(2nd comments)

- The applicant is reminded that the design of the proposed new access should accord with that of a single dwelling in Part 3.11, of the revised Nottinghamshire Highway Design Guide. It will need to be a minimum width of 3.6m, accounting for boundary treatments, surfaced in a bound material with

an appropriate means of surface water disposal thus to prevent runoff from discharging onto the public highway and have adequate visibility splays. The latter have yet to be demonstrated and need to be accounting for any proposed boundary treatments i.e., the front hedgerow. Nothing higher than 0.6m is permitted within visibility splays, and they need to be entirely in the ownership of the applicant and or existing highways extents.

- As for parking, the site plan has NTS reference on it, so it is not clear what scale it is to. This needs marking on, and key geometric measurements also shown. The property because it is proposed to have 4 bedrooms needs 3 on plot parking spaces. If one of these is to be within a garage, then it will need to meet the minimum internal dimensions to count.
- Cycle storage is now shown attached to the external garage wall, but it appears to be unsheltered which acts as a deterrent to cyclists. The addition of the EV charging point is welcomed.

(3rd comments)

- Based on additional information submitted, there are no highways objections to this proposal subject to conditions, and informative.
- It is also noted that there is a well-trodden path across the site, which historic photography reveals has been in situ for over a decade. Consequently, advice has been sought from specialist colleague in Public Rights of Way, as to date there doesn't appear to have been a claim recorded as yet, according to their definitive map. In this instance their advice is as follows: -
- The evidence of use on site suggests that there is a route on the ground that is very well used. In not accommodating public access on this particular route the applicants face the potential risk of a claim for public rights to be acquired through usage. A claim could be triggered if public use is obstructed and it can be subsequently demonstrated by user evidence that the route has been used by members of the public for a minimum uninterrupted period of 20 years, in the belief that the use is public (without force, secrecy or with the landowner's permission). This could result in the route being legally recorded on the Definitive Map subsequent to development work commencing or being completed, which would require the claimed route, or a reasonable alternative (subject to an appropriate diversion order), to be made publicly available. In order to mitigate this risk, the applicants are advised to seek to formally divert or extinguish all routes across the proposed development site, under the provisions of Section 257 of the Town and Country Planning Act 1990. This would enable the applicants to formally dedicate the routes that they wish to accommodate on the site for public access and to formally extinguish any routes that they wish to retain as private accesses. For more information the

applicant should contact the Rights of Way team at VIA East Midlands on 0115 977 2059 or by email at contactus@viaem.co.uk.

ADC Conservation Officer

(1st comments)

- Site itself is currently vacant land adjacent to the builders yard, with development proposed to face onto the cutting, sitting within the Annesley Conservation Area. Surrounding properties are a series of terraced properties surrounding a green area of public open space which is part of the original design of the area housing the mining community and providing them an important area of space. the colliery site itself has been developed losing the historic relationship between the terraces and colliery.
- Site remains part of this original open space, with the trees to the rear of the site creating a visual break to Byron Fields. The only other development along this stretch of Byron Road is the now disused factory building, although as covered in the DAS submitted, this replaced a previous Co-op shop.
- The design is generally reasonable, but the drawings are missing several elements which I would like to see before making further comments:
 - o Chimney on the right hand side of the frontage would be needed even if this is in GRP, but preferably brick
 - o No details regarding materials, and in order to secure some degree of detail with complete detailing being subject of a condition, the plans should be annotated with general materials. DAS mentions concrete but we would expect a high quality finish for the roof
 - o No details of boundary treatment which would be important in this location.

(2nd comments)

- Chimney makes a difference and happy with the materials and boundary proposals.

Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

Ashfield Local Plan Review (ALPR) (2002)

ST1 – Development

ST3 – Named Settlement

EV10 - Conservation Area

RC3 – Formal Open Space

HG5 – New Residential Development

National Planning Policy Framework (NPPF) (2023)

Part 2 – Achieving sustainable development

Part 5 – Delivering a sufficient supply of homes

Part 9 – Promoting sustainable transport

Part 11 – Making effective use of land

Part 12 – Achieving well designed places

Part 16 – Conserving and enhancing the historic environment

Supplementary Planning Documents (SPD)

Residential Design Guide

Residential Extensions Design Guide

Residential Car Parking Standards

Relevant Planning History

V/1982/0480 – Site for Light Industrial Building – Refuse

V/1984/0201 – Site for Residential Development Roadworks, Landscaping & Amenity Areas – Conditional

V/1986/0091 – Change of Use to Retail Sale of Caravans with Car Parking – Refuse

V/1986/0233 – Site for Residential Development - Refuse

V/1986/0699 – 1. Landscaping of 4 ha. of Derelict Land, 2. Provision of Rear Access to Houses on Byron Road, 3. Upgrading of Rear Access to Houses on Mosley Road, 4. Provision of Car Parking Areas to Houses on Mosley Road - Conditional

V/2000/0843 – Change of Use to Car Park and Storage – Refusal

V/2001/0629 – Outline Application for Prefabricated Warehouse – Refusal

V/2004/1199 – Site for Residential Development – Withdrawn

V/2009/0562 – Construction of New B1 Light Industrial Units and Associated Car Parking and Servicing Area – Conditional

V/2018/0363 – Construction of Industrial Unit (B1) and Associated Car Parking and Servicing Areas – Withdrawn

V/2022/0849 – 2 Dwellings with Parking Spaces – Withdrawn

Comment :

Main Considerations

The main issues to consider in the determination of this application are considered to be:

- Principle of development
- Heritage and visual amenity
- Residential amenity
- Highway safety

Principle of development

The site is identified as being within a conservation area and formal open space within the ALPR (2002).

Policy RC3 sets out that development which would lead to the loss of formal open space will only be permitted where it complies with the criteria set out. It also goes on to state a planning condition or planning obligation will be negotiated as appropriate to secure off site provision. It is acknowledged that the proposal does not meet the criteria set out within the policy however it is also acknowledged that the proposal will only be on a small portion of the designated formal open space. In addition to this the application form details that the applicant owns the site therefore the site could be fenced off at any point thus not providing an open space to the community. In the planning balance whilst it is acknowledged that an area of designated formal open space will not be provided and no alternative space will be provided there will still be ample formal open space in this area and it is considered that the proposal would not warrant a refusal on this basis alone.

Heritage and Visual Amenity

Policy EV10 sets out criteria where development will be permitted in Conservation Areas. The supporting text for the policy details that the new development should respect the character of the existing architecture in terms of scale, grouping and materials. The overall character of the area will also be an important consideration, applying to features such as walls, paving, verges, trees, street furniture and spaces between dwellings which can be as significant as the buildings themselves. Part a of Policy EV10 states that development will be permitted where it preserves or enhances the character and appearance of the area, or its setting.

Following the submission of further details and addition of a chimney the ADC Conservation Officer commented that they were happy with the proposal. Although the proposal will be a new addition to the area it is considered that the design is sympathetic to its surroundings and the character of the area and would not have a detrimental impact on the character and appearance of the Conservation Area.

The proposed dwelling will be two storey with headers and sills, brick detailing and a chimney. The materials proposed are Forterra Clumber Red Brick Mixture and Russel Grampian Smooth Grey Roof Tiles. Within the vicinity of the site are a mixture of materials therefore it is considered that the proposed materials are

acceptable in this location. The design of the dwelling is considered acceptable and will likely create a positive visual contribution to the entrance to this part of the Conservation Area. Overall it is considered that the proposal would not have a detrimental impact on the visual amenity of the area, character of the street scene and character and appearance of the conservation area.

Further details were requested in relation to boundary treatments at the site and the agent has advised that there will be fencing to the rear boundary of a simple design with mature hedge planting to create a soft boundary. The front boundary will be open with soft planting. Although some detail has been provided which is broadly considered acceptable conditions are recommended to secure further details on the boundary treatment and planting to ensure that it will not impact the visual amenity of the area, street scene or conservation area.

Residential Amenity

The proposed dwelling will provide an acceptable level of internal space and private outdoor amenity space in line with the minimum requirements set out in the Council's adopted SPD 'Residential Design Guide' (2014).

The adopted SPD as discussed above also requires a minimum of 21m separation between main aspect windows and 12m between main aspect windows and secondary windows or blank elevations. The side elevation of the proposed dwelling is located approximately 38m away from properties to the east on Byron Road and approximately 85m+ away from properties on Moseley Road(as the crow fly's). It is acknowledged that the proposal will be located in proximity to the timber yard which is understood to also be within the ownership of the applicant however between the timber yard boundary and the side elevation of the dwelling is approximately 7m. The proposed parking and garage will also be located within this area. Whilst it is acknowledged that a certain level of noise will arise from the timber storage yard it is unlikely to be significant enough to warrant a refusal on this basis alone.

Due to the siting of the proposal it is considered unlikely that the proposal would have a detrimental impact on the residential amenity of neighbouring properties in terms of overlooking, overshadowing, overbearing and loss of privacy and is unlikely to have a detrimental impact on the amenity of future occupiers.

Highways

During the application process comments have been received from Nottinghamshire County Council Highways raising concerns. A number of amendments have been

submitted addressing the concerns raised. In their final comments NCC Highways offered no objection to the proposal subject to conditions and an informative.

In accordance with the Councils adopted SPD 'Residential Car Parking Standards' a 4 bedroomed property should provide 3 off-street parking spaces. The plans demonstrate that 2 off-road parking spaces can be achieved on the drive with another to be provided in the detached garage. In addition to this it is also proposed to install an EV charging point and cycle parking along with a new vehicular access for the site.

Within their latest comments NCC Highways have also commented that they have consulted with the Rights of Way team as there is a well-trodden path across the site which appears to have been in situ for over a decade. The public rights of way officer advised them that to date there doesn't appear to have been a claim recorded but advised that the evidence of use on site suggests that there is a route on the ground that is well used. In not accommodating the public access on this particular route the applicants face the potential risk of a claim for public rights to be acquired through usage. A claim could be triggered if public use is obstructed and it can be demonstrated by user evidence that the route has been used by members of the public for a minimum uninterrupted period of 20 years in the belief that the use is public (without force, secrecy or with the landowners permission). This could result in the route being legally recorded which would require the route to be made publicly available. The applicants are advised to seek to formally divert or extinguish all routes across the proposed development site under section 257 of the Town and Country Planning Act 1990. An informative is recommended to be added to any forthcoming approval.

Conclusion :

Having reviewed the submitted information and comments received against all relevant policies and material considerations it is considered that the proposal is unlikely to have a detrimental impact on the Conservation Area, visual amenity, residential amenity and highway safety. Concerns have been raised by Rights of Way and the applicant is aware of these comments. Due to the above conditional consent is recommended.

Recommendation: - Grant Consent Conditionally

CONDITIONS

- 1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.**
- 2. The materials and finishes to be used for the external elevations and roof of the proposal shall be as follows:**
 - Forterra Clumber Red Mixture**
 - Russel Grampian Smooth Grey**
- 3. This permission shall be read in accordance with the following plans:**
 - Site Location Plan, received 17/04/2023**
 - Site Plan, Proposed Elevations, Proposed Floor Plans, Dwg No. CS/05299/2 Rev C, received 19/09/2023**

The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.

- 4. No part of the dwelling hereby permitted shall be first occupied until such time that the parking, and access arrangements have been implemented as per the approved plans to the satisfaction of the LPA.**
- 5. No part of the dwelling hereby permitted shall be first occupied until such time that a vehicular crossover has been implemented to Highway Authority specification, to the satisfaction of the Local Planning Authority.**
- 6. No development shall take place past slab level until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.**
- 7. No development shall take place past slab level until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.**
- 8. No development shall take place past slab level until details of the proposed treatment of the sites boundaries have been submitted to and approved in writing by the Local Planning Authority. Any garden fence or other non-permeable structure (and/or railings and/or hedgerows) should be provided with small holes (gaps 130mm x 130mm) to allow a continuous pathway in which hedgehogs and other small mammals can move through the developed site. Such holes in the boundary treatments shall thereafter be retained in perpetuity.**

9. Prior to the occupation of the hereby approved dwelling, details shall be submitted to the Local Planning Authority and approved in writing in relation to the type and number of bird and bat boxes/bricks and bee brick(s) which are to be installed within the fabric of the new dwelling. The boxes/bricks shall thereafter be installed in accordance with the approved details and maintained in perpetuity.

REASONS

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.
2. To ensure the satisfactory appearance of the development.
3. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
4. To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area in the interests of Highway safety.
5. To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general Highway safety.
6. To ensure that the development provides a satisfactory means of drainage, in order to reduce the risk of creating; or exacerbating a flooding problem, and to minimise the risk of pollution.
7. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
8. In the interests of residential amenity and enhancing local ecology.
9. In the interests of enhancing local ecology.

INFORMATIVE

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).
2. To create the vehicular crossover to access the driveway, works on the public highway will need to be carried out. These works shall be licenced in advance by VIA East Midlands, who can be contacted on 0300 500 8080 or by emailing licences@viaem.co.uk. Please note that the Highway Authority will not support the discharge of any associated planning condition, unless evidence is submitted to demonstrate that the aforementioned process has been followed.
3. The evidence of use on site suggests that there is a route on the ground that is very well used. In not accommodating public access on this

particular route the applicants face the potential risk of a claim for public rights to be acquired through usage. A claim could be triggered if public use is obstructed and it can be subsequently demonstrated by user evidence that the route has been used by members of the public for a minimum uninterrupted period of 20 years, in the belief that the use is public (without force, secrecy or with the landowner's permission). This could result in the route being legally recorded on the Definitive Map subsequent to development work commencing or being completed, which would require the claimed route, or a reasonable alternative (subject to an appropriate diversion order), to be made publicly available. In order to mitigate this risk, the applicants are advised to seek to formally divert or extinguish all routes across the proposed development site, under the provisions of Section 257 of the Town and Country Planning Act 1990. This would enable the applicants to formally dedicate the routes that they wish to accommodate on the site for public access and to formally extinguish any routes that they wish to retain as private accesses. For more information the applicant should contact the Rights of Way team at VIA East Midlands on 0115 977 2059 or by email at contactus@viaem.co.uk.

4. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.